

LEASE

THIS LEASE, made and entered into this 24 day of August 2000 by and between the City of Boulder, Colorado, a Colorado home rule city ("City"), and the Colorado Chautauqua Association, a Colorado non-profit corporation ("Association"),

WITNESSETH:

WHEREAS, the City and the Association have maintained for approximately one hundred years a mutually beneficial relationship in the establishment and maintenance of a Chautauqua assembly for the benefit of the Boulder community and its visitors; and

WHEREAS, the entire Chautauqua (a portion of which is described in Exhibit A attached hereto) was entered into the City, state and national registers of historic places as an historic district in 1978; and

WHEREAS, the preservation of the Chautauqua heritage for the benefit of future generations and the operation of the Chautauqua for the benefit of all are the primary objectives of both parties;

WHEREAS, the existing Lease agreement between the parties will expire on March 6, 2001; and

WHEREAS, the parties have determined that it is in the interests of both to renew the existing Lease on the terms and conditions set forth below;

NOW, THEREFORE, the parties hereby agree as follows:

1. **TERM.** The City hereby leases the real property described in Exhibit A attached hereto to the Association for a period of twenty years beginning January 14, 1998. The City reserves the right to replace the description contained in Exhibit A by a more detailed survey of the land in question, at any time.

2. **RENT.** As rent, and as partial consideration for this Lease, the Association agrees to pay to the City on or before October 1 of every calendar year during the term hereof a sum of money calculated as follows:

A. In lieu of City ad valorem taxes on the real property described in Exhibit A, the Association shall pay \$2,000.00 per annum to the City.

B. As rental for the use of the real property described in Exhibit A, the Association shall pay \$2,500.00 per annum to the City.

3. **RESPONSIBILITIES.** The Association accepts responsibility for the maintenance and improvement of all buildings and improvements located on the real property described in Exhibit A, except for private cottages and the public restrooms immediately below the Dining Hall. With respect to such public restrooms, the City shall assume all costs of regular and reasonable cleaning and maintenance, supplies and water, annual painting, and major maintenance, including, without limitation, replacement of obsolete or unserviceable fixtures. The Association shall maintain, preserve and keep all buildings and improvements for which it is responsible in good repair, working order and condition and shall make or cause to be made all necessary repairs and improvements to that

end. The Association shall have the privilege of remodeling the buildings and improvements and making such substitutions, additions, modifications and improvements thereto as the Association may deem proper. The Association agrees to implement all feasible procedural safeguards in the operation of the Auditorium, the Dining Hall and the Academic Hall so as to minimize the likelihood of serious fire. Subject to the availability of appropriations therefor, the City shall:

A. Provide all ongoing City services, such as police, fire, animal control, and the like, to the area described in Exhibit A, and shall assume the maintenance of the public streets and public utilities of such area and the park areas adjacent thereto;

B. Plant screening landscape around the parking lot parcel separately described in Exhibit A; and

C. If the Association is unable to secure grant funding for replacement after all reasonable efforts, pay for the cost of replacing the wooden roofs on the Dining Hall and the Auditorium (stage roof only) before or by 2014.

4. BY-LAWS AND ARTICLES OF INCORPORATION. Throughout the term of this Lease, two-fifteenths (2/15) of the Association's Board of Directors shall be appointed by vote of the City Council.

5. USE OF FACILITIES. The Association shall have year-round use of all of the real property described in Exhibit A, and it is the intent of the parties that the leased

facilities be given the widest practicable use in terms of scope and time. At a minimum, the Association shall schedule a summer entertainment program in the Auditorium annually beginning no later than June 15 and extending to at least August 31. Such programming shall include at least 15 live performances.

6. TRAFFIC CONTROL AND PARKING. The Association shall have the following rights and powers with respect to entry into and parking within the areas described in Exhibit

A:

A. The Association shall be entitled, at its discretion, to deny or regulate motor vehicle entry into such areas when the available parking space therein has been filled or is close to being filled. For purposes of exercising this right, the Association may deny or regulate entry at the entrance to the park on Baseline Road and/or on 12th Street. In exercising this right, the Association will use its best efforts to direct motor vehicles which are denied entry to available parking space on the north side of Baseline Road and 12th Street, and will otherwise use its best efforts to minimize the impact of motor vehicle parking and traffic in the residential neighborhoods adjacent to the park.

B. The Association shall be entitled, at its discretion, to impose a charge for parking within such areas.

The Association and the City agree that the absence of a dependable and coherent residential parking scheme in the areas described in Exhibit A has adversely affected the

Association's operations, the maintenance of a Chautauqua assembly and its attendant mission, and the experiences of those who reside or stay in such areas in order to enjoy and experience the Chautauqua. The Association and the City further agree that a solution to the foregoing problems requires the adoption and implementation of a residential permit parking system or similar plan, which reasonably assures to each cottage a reasonably convenient on or off street parking space. To that end, the City shall direct its staff to work with the Association to design such a system or plan, and shall use its best efforts to adopt the same as an Ordinance of the City, enforceable in the same manner as other City Ordinances of a similar nature. But such commitment shall not impair the legislative authority of the City Council.

7. **NON-DISCRIMINATION.** The Association shall abide by all relevant City, state and federal legislation concerning non-discrimination in the offering of housing and public accommodations and in admissions to public events.

8. **INSURANCE.** The Association shall cause public liability insurance to be carried and maintained, at all times during the term hereof, with respect to all activities to be undertaken by the Association on or in connection with the real property described in Exhibit A. Such public liability insurance shall be in amounts not less than the then applicable coverage amounts for any injury to one person in any single occurrence and coverage amounts for any injury to two or more persons in any single occurrence set forth in Section 24-10-114, C.R.S. 1973, as amended, but not less than \$150,000.00 for any injury

to one person in any single occurrence. Insurance purchased by the Association pursuant to this section shall name the City as an additional named insured, and a certificate evidencing the insurance coverage required by this section shall be provided at least annually to the City. Each insurance policy provided pursuant to this section shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interests of the City, without first giving actual written notice thereof to the City at least ten days in advance of such cancellation or modification.

9. COVENANT NOT TO INCUR LIENS. The Association shall not incur liens greater than a total of \$1 million dollars on the leasehold described in Exhibit A or on any of the buildings or improvements located thereon not owned by the City, shall obtain proper bonds to insure against any such liens and shall post the land prominently to indicate that the City shall not be responsible for any indebtedness or liens incurred.

10. ASSOCIATION TO ASSUME DUTIES OF CITY: INDEMNIFICATION. The Association shall assume any and all duties with might otherwise be imputed to the City by virtue of its continued ownership of the public buildings located on the real property described in Exhibit A, except for the public restrooms. The Association agrees to indemnify and save harmless the City against any and all claims, debts, demands, or obligations which may be asserted against the City arising by reason of, or in connection with, the City's ownership of the aforementioned public buildings and any alleged act or omission of the Association on or in connection with the real property described in Exhibit A.

11. PERMITTING. The Association and the City shall develop a mutually agreeable process for sharing information concerning planned activities and events in the park adjacent to the real property described in Exhibit A, and concerning the receipt, review and grant of permits for activities in the park. The process by which information will be shared, needed agreements reached and applications for permits reviewed and approved shall be included in an annual review of issues and procedures conducted between the Parks and Recreation Department and the Association, and may be renegotiated at any time upon request of either party.

12. INSPECTION OF BOOKS. The Association shall maintain its principal office on the Chautauqua grounds and shall keep and maintain the books of the Association at such office. The books and records of the Association shall be subject to inspection and examination by the City at all times.

13. ANNUAL REPORT AND AUDIT. The Association shall provide an annual report to the City on or before March 1st of each year detailing the following performance indicators: number and type of performances; number of attendees in Auditorium, Community House and other programming venues; estimated number of City residents served; estimated number of Boulder youth served; number of tickets and free admissions provided to community organizations and individuals; number of free (no cost) events sponsored by the Association; description of outreach efforts to diverse populations/communities of color in Boulder; number of low or no cost rentals to non-profit

or governmental groups in the community; and number and type of partnerships with other arts and cultural organizations. The foregoing report shall accompany an annual financial audit also submitted to the City. Subsequent to the receipt of the annual report and the annual audit, the City Manager or his/her designee shall convene a meeting to discuss any and all issues that may exist between the City and the Association. This meeting may be combined with the annual review described in Section 11 above.

14. LIMITATIONS ON SUBLEASES. The Association shall provide in all subleases to owners of private cottages that:

- A. No sublease shall be assigned or further let without prior written approval of the Association, which approval shall not be unreasonably withheld.
- B. Upon termination or nonrenewal of such sublease, the owner of the improvements on the property shall have the choice to remove such improvements from the property. Any improvements not removed within six months shall automatically become the property of the Association.
- C. As a condition of continued tenancy, each cottage owner shall, prior to transferring an ownership interest in the cottage to or for the benefit of any person not related to the owner within the fourth degree of consanguinity

(including marriage or adoption, as set forth in the chart attached as Exhibit B),

offer, in writing, to sell all ownership interests in the cottage to the Association (the "Offer"). The Association shall have twenty one (21) days from the date it receives the Offer to notify the owner in writing of its determination to proceed with the offer (the "Continuation Notice"). If the Association fails to provide the Continuation Notice within twenty one (21) days following its receipt of the Offer, the owner may freely transfer his or her interest in the cottage during the rest of the year, ending on the anniversary of the Association's receipt of the Offer. At the conclusion of that year, the provisions this paragraph C. shall again be triggered by any proposed transfer beyond the fourth degree of consanguinity (as defined above). If the Association provides the Continuation Notice within twenty one (21) days following its receipt of the Offer, the owner and the Association shall proceed as follows:

(i) For the thirty (30) days immediately following the Association's provision of the Continuation Notice, the Association and the owner shall negotiate concerning the price to be paid by the Association for the purchase of all ownership interests in the cottage (the "Negotiated Purchase Price"). If, within or at the conclusion of that thirty (30) day

period, the Association and the owner agree in writing on a Negotiated Purchase Price, then the owner shall transfer all ownership interests in the cottage to the Association for payment of the Negotiated Purchase Price at a closing occurring at date and time mutually agreeable to the parties, but no later than forty five (45) days after the date on which agreement was reached on the Purchase Price. Payment of the Negotiated Purchase Price at the closing shall be apportioned and allocated as follows: first, to the payment of any and all ad valorem or other taxes then due and owing on the cottage, or which will be due and owing for the calendar year, tax year or other relevant period up to the date of closing; second, to the full payment and satisfaction of any and all liens, encumbrances, assessments or other obligations secured by the cottage or any interest in the cottage; third, to the owner or his/her designee.

(ii) If the Association and the owner are not able to agree in writing on a Negotiated Purchase Price within the thirty (30) day period set forth above, then within seven (7) days after the termination of the thirty (30) days, the owner and the Association shall jointly request a list of six (6) appraisers from the Appraisal Institute or such other association or group of professional appraisers as may be specified in the sublease to which the Association and the owner are parties. The listed appraisers shall have no

prior or current professional or financial relationship with the Association or the owner, shall not have a family relationship of any type with the owner, and shall have the following minimum qualifications: a) an MAI or SRA certification; b) a minimum of seven (7) years experience in the appraisal of real estate; c) a minimum of five (5) years experience in the appraisal of real estate in the Denver-Boulder metropolitan area.

(iii) Within seven (7) days after receipt of the list of appraisers, the owner and the Association shall meet to select two appraisers from the list. The Association and the owner shall each take turns striking one appraiser from the list until only two appraisers remain (collectively, the "Impartial Appraisers").

(iv) The Association and the owner shall jointly inform each Impartial Appraiser of his/her selection, and shall jointly request that each Impartial Appraiser promptly appraise the value of the cottage without regard to the value of the land on which it is situated and which the owner is entitled to use and occupy by virtue of his or her sublease with the Association, without regard to any offer which may have been made for the purchase of the cottage, without regard to any contract of sale which may then be outstanding with respect to the cottage, and without communicating with the other Impartial Appraiser concerning his or her appraisal of the

cottage. Each Impartial Appraiser shall issue a written report of his or her appraisal to the Association and the owner (an "Appraisal Report"). Except as set forth below, the Association and the owner shall be equally responsible for the payment of all fees and costs charged by the Impartial Appraisers in preparing the Appraisal Reports.

(v) The average of the values of the cottage set forth in the Appraisal Reports shall constitute the price which the Association must pay in order to purchase all ownership interests in the cottage (the "Appraised Purchase Price"). The Association shall have twenty one (21) days from its receipt of the second Appraisal Report in which to notify the owner of its intent to purchase all ownership interests in the cottage at the Appraised Purchase Price (the "Purchase Notice"). If the Association fails to provide the Purchase Notice within twenty one (21) days following its receipt of the second Appraisal Report, the owner may freely transfer his or her interest in the cottage during the rest of the year, ending on the anniversary of the Association's receipt of the second Appraisal Report. At the conclusion of that year, the provisions this paragraph C. shall again be triggered by any proposed transfer beyond the fourth degree of consanguinity (as defined above). (vi) If the Association provides the Purchase Notice within twenty one (21) days following its receipt of the second Appraisal Report, the Association shall be entitled to purchase and

receive all ownership interests in the cottage on the terms set forth below unless, within thirty (30) days following his or her receipt of the Purchase Notice, the owner notifies the Association in writing of his/her decision to terminate the Purchase Notice (the "Termination Notice"). The Termination Notice shall be accompanied by payment from the owner to the Association in an amount equal to the Association's share of the fees and costs incurred and charged by the Impartial Appraisers in preparing the appraisal reports, and shall be void and ineffective unless accompanied by such payment. If the owner provides the Termination Notice and required payment to the Association on or within thirty (30) days following his or her receipt of the Purchase Notice, the Association's entitlement to purchase and receive all ownership interests in the cottage shall terminate; provided, however, that the provisions of this paragraph C shall again be triggered by any proposed transfer beyond the fourth degree of consanguinity (as defined above), regardless of such transfer occurs or is proposed to occur.

(vi) If the Association provides the Purchase Notice within twenty one (21) days following its receipt of the second Appraisal Report, and if the owner does not provide the Termination Notice and required payment to the Association on or within thirty (30) days following his or her receipt of the Purchase Notice, the owner shall transfer all ownership interests in

the cottage to the Association for payment of the Appraised Purchase Price at a closing occurring at a date and time mutually agreeable to the parties, but not later than forty five (45) days after the owner's receipt of the Purchase Notice. Payment of the Appraised Purchase Price at the closing shall be apportioned and allocated as follows: first, to the payment of any and all ad valorem or other taxes then due and owing on the cottage, or which will be due and owing for the calendar year, tax year or other relevant period up to the date of closing; second, to the full payment and satisfaction of any and all liens, encumbrances, assessments or other obligations secured by the cottage or any interest in the cottage; third, to the owner or his/her designee.

In order to assure an objective purchase decision on the part of the Association, the Association shall maintain a reasonable reserve for the purchase of cottages, and no person with a current or prospective financial interest in the matter may vote on the Association's decision to set the amount of such reserve or to purchase or not to purchase a cottage.

Nothing in this Section 14 shall prohibit the Association and the owner from agreeing to provisions in their sublease which are supplemental or additional to the terms set forth above, provided that such supplemental or additional provisions are consistent with, and do not impair or limit, the terms set forth above.

15. TERMINATION OR NONRENEWAL OF LEASE. Upon the termination

or nonrenewal of this Lease, all buildings and improvements on the real property described in Exhibit A shall be removed within six months, and if not removed shall automatically become the property of the City of Boulder.

16. MISCELLANEOUS.

- A. The legislation of the State of Colorado and the City of Boulder shall be applied in the interpretation, execution, implementation and enforcement hereof.
- B. In the event that any provision hereof shall be held to be unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- C. This Lease shall be terminable immediately by either party upon any breach of the terms hereof. No delay, omission or forbearance in exercising such right or power shall impair any such right or power or shall be construed as a waiver thereof, unless such waiver is expressly given in writing and signed by both parties.
- D. The captions contained herein are inserted for ease of reference only and shall not be construed to constitute or modify any part hereof.
- E. This Lease contains and constitutes the entire agreement between the City and the Association with respect to the subjects addressed herein, and all prior or contemporaneous agreements or leases between the City and

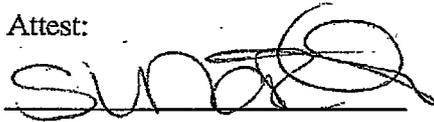
the Association, whether written or oral, are merged in and superseded by
this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and
year first above written.

CITY OF BOULDER

By: 
Its: City Manager

Attest:



THE COLORADO CHAUTAUQUA ASSOCIATION

By: 
Its: PRESIDENT, BOARD OF DIRECTORS

Attest:

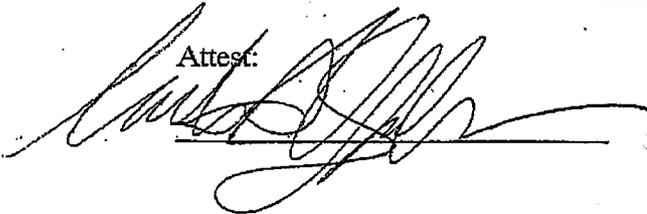


EXHIBIT A

Commencing at a point along the East edge of Bluebell Road
490'[±] South of the intersection of Bluebell Road and Baseline
Road;
Thence East, 690'[±] along a line described by the North edge of
Clematis Road;
Thence South, 170'[±] along a line parallel to and 10'[±] East of
the East side of the Chautauqua Dining Hall;
Thence East 300'[±], along a line parallel to and 95'[±] North of
the North side of the Chautauqua Auditorium;
Thence South West, 1,400'[±] along a line described by the West
edge of Chautauqua Reservoir Road;
Thence West, 150'[±] to the East edge of Bluebell Road;
Thence North, 1,400'[±] to the point of beginning.

