

N44566

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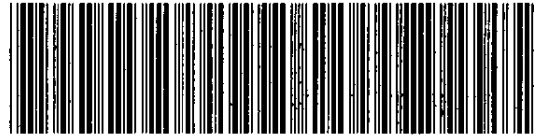


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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Amended & Restated

TB

7/10/08

COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: Performing Arts Center Trust, Inc.

DOCUMENT NUMBER: N44566

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Louis Tertocha, Esq.

(Name of Contact Person)

Performing Arts Center Trust, Inc.

(Firm/ Company)

1300 Biscayne Blvd.

(Address)

Miami, FL 33132

(City/ State and Zip Code)

For further information concerning this matter, please call:

Louis Tertocha, Esq.

(Name of Contact Person)

at (786) 468-2206

(Area Code & Daytime Telephone Number)

Enclosed is a check for the following amount:

☐ \$35 Filing Fee

☐ \$43.75 Filing Fee &
Certificate of Status

☐ \$43.75 Filing Fee &
Certified Copy
(Additional copy is
enclosed)

☒ \$52.50 Filing Fee
Certificate of Status
Certified Copy
(Additional Copy
is enclosed)

Mailing Address

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

FILED
2008 JUL -7 PM 12:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Exhibit B

**SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
PERFORMING ARTS CENTER TRUST, INC.**

The undersigned officers, natural persons competent to contract, hereby file these Second Amended and Restated Articles of Incorporation of **PERFORMING ARTS CENTER TRUST, INC.**, pursuant to Section 617.1007 of the Florida Not For Profit Corporation Act, and hereby certify as follows: The original and present name of the Corporation is **PERFORMING ARTS CENTER TRUST, INC.** The original Articles of Incorporation were filed with the Department of State of the State of Florida on August 6, 1991, as amended by amendments to the original Articles of Incorporation filed with the Department of State on August 25, 1992 and September 2, 1993. The First Amended and Restated Articles of Incorporation were filed with the Department of State on January 2, 1998.

These Second Amended and Restated Articles of Incorporation were duly adopted pursuant to Section 617.1007 of the Florida Not For Profit Corporation Act upon the affirmative vote of at least two-thirds of the members of the Corporation at a meeting held on May 30, 2006 and a majority of the Board of Commissioners of Miami-Dade County, Florida on July 18, 2006. These amended and restated Articles of Incorporation shall be effective upon filing with the Department of State.

ARTICLE I
ORGANIZATION

1.1 Name:

This Corporation, formed under the Florida Not For Profit Corporation Act, shall be known as the Performing Arts Center Trust, Inc. (hereafter, the "Corporation").

1.2 Seal:

The seal of this Corporation shall contain the words "Performing Arts Center Trust, Inc., a corporation not-for-profit".

1.3 Offices:

The principal offices of the Corporation shall be located in the State of Florida at such place or places as the Board of Directors may from time to time, designate. The mailing address of the Corporation shall be located at the principal offices of the Corporation. On the date hereof, such principal offices are at 1444 Biscayne Boulevard, Suite 202, Miami, FL 33132. The Corporation's offices will relocate to the Performing Arts Center at 1300 Biscayne Boulevard, Miami FL 33132 on August 4, 2006.

ARTICLE II **PURPOSE**

This Corporation is organized and shall operate exclusively for educational, cultural and charitable purposes as evidenced by conducting or supporting activities for the benefit of or to carry out the purposes of the Performing Arts Center Trust, Inc., but limited in all events to exempt purposes described in Section 501(c)(3) of the Internal Revenue Code of 1986; and this Corporation may engage in only such activities permitted under the laws of the State of Florida and the United States of America as shall constitute activities *in furtherance* of such exempt purposes. The Corporation is a non-profit corporation organized to provide a broad source of community support for the Performing Arts Center in the City of Miami, Florida (the "Performing Arts Center"). No part of the assets or the net earnings of the Corporation shall be distributed to any officer, director, member or any other private person.

ARTICLE III **FUNCTIONS**

It is expected that the Corporation will provide the governing authority to design, construct, manage and operate the Performing Arts Center. The site on which the Performing Arts Center is located and the Performing Arts Center itself will be owned by Miami-Dade County. It is not contemplated that the Corporation will own either the land or buildings to be designed, constructed, managed and operated by the Corporation. The Corporation will have full authority to employ architect(s), acousticians and other consultants, approve design and employ construction and development managers or firms and supervise their work. The Corporation will employ a President who will be responsible for day-to-day carrying-out of the Corporation's work and such other employees as the Corporation shall deem appropriate. The Corporation may establish or enter into a contractual relationship with a leasing company. The Corporation is responsible for raising funds for various purposes and, to accomplish this, the Corporation may establish one or more foundations, subsidiary corporations, or affiliated organizations.

ARTICLE IV **BOARD OF DIRECTORS**

The Board of Directors is responsible for the direction and control of all matters pertaining to the Corporation and the Performing Arts Center. The Board of Directors and the County Manager of Miami-Dade County shall select a President, who shall serve at the pleasure of the Board of Directors. The President shall establish personnel and management policies in accordance with applicable law and such policies as the Board of Directors may adopt. The term "Director" as used herein shall include Designated Directors unless otherwise indicated, but shall not include the President.

4.1 Members of Board of Directors:

The affairs of the Corporation shall be managed by the Board of Directors, all of whom shall serve without compensation. At all times there shall be no less than five (5) nor more than forty one (41) Directors.

4.2 Appointment of Directors:

The Board of Directors shall be appointed as follows:

(a) Local governmental authorities shall appoint twenty-eight (28) members, comprised of twenty-one (21) Miami-Dade County appointments with the remaining appointments apportioned between the City of Miami, City of Miami Beach and Miami-Dade County School Board as defined below:

(i) The Board of Commissioners of Miami-Dade County shall appoint nineteen (19) Directors, as follows: thirteen (13) Directors shall be appointed by individual County Commissioners and six (6) Directors shall be appointed by the Board of Commissioners of Miami-Dade County At-Large.

(ii) The Mayor of Miami-Dade County shall appoint two (2) Directors;

(iii) The City of Miami Commission shall appoint three (3) Directors subject to ratification by the Board of Directors;

(iv) The City of Miami Beach Commission shall appoint three (3) Directors subject to ratification by the Board of Directors;

(v) The Miami-Dade County Public School Board shall appoint one (1) Director.

(vi) For each appointment by the County Commissioners, County Commission At-Large, County Mayor, City of Miami Commission and City of Miami Beach Commission, the Trust shall advise the appointing authority of any special characteristics or professional skills that it is seeking in order to strengthen and balance the Trust board. In addition, the Trust may suggest potential nominees for consideration by the appointing authority. After consideration of these recommendations, the appointing authority shall select an appointee that, in its best judgment, will best serve the interests of the Trust and the governmental agency.

(b) Appointments made by the Corporation: In accordance with the Bylaws of the Corporation, the Corporation shall appoint Community Representative Directors, not to exceed thirteen (13) members, as follows:

(i) One (1) Director for each of the Designated Primary Artistic Organizations named in Section 4.3;

(ii) One (1) Director each from at least two (2) Miami Dade County-based non-profit performing arts organizations which reflect, in both their governance and programming, community ethnic cultural perspectives including at a minimum an Hispanic American artistic organization and an African American artistic organization; and

(iii) Additional Community Representative Directors who represent the interests and diversity of the community at large.

4.3 Designated Primary Artistic Organizations:

(a) Notwithstanding any other provision of these Articles, each of the following organizations shall be entitled to appoint one Designated Primary Artistic Director who may remain as Designated Primary Artistic Director at the pleasure of the organization so long as the organization is a Designated Primary Artistic Organization. The following named organizations have been designated as Primary Artistic Organizations and will constitute the four (4) Designated Primary Artistic Organizations:

- (i) Concert Association of Florida, Inc.
- (ii) Florida Grand Opera, Inc.
- (iii) Miami City Ballet, Inc.
- (iv) New World Symphony, Inc.

(b) The requirements for Designated Primary Artistic Organizations include:

(i) A Designated Primary Artistic Organization shall be any professional non-profit cultural organization, incorporated or not, which shall have been in existence for more than one (1) year, has an annual operating budget of more than \$500,000, and has displayed a long term financial and usage commitment to the Corporation, as determined by the Board of Directors.

(ii) Designated Primary Artistic Directors shall be those Directors appointed by a Designated Primary Artistic Organization.

4.4 Qualifications of Directors:

The Directors are expected to devote time, professional knowledge, personal influence, money and/or a combination thereof to attain the goals of the Corporation and shall be selected by reason of their abilities to do the following:

(a) To provide and secure financial support for the activities of the Corporation. The personal contributions of the Directors are key to the financial well-being of the Corporation. Also, Directors, because they have great standing in the community, can greatly influence individuals, corporations, foundations and government agencies to provide financial support.

(b) To volunteer their specialized business expertise, advice and guidance to working committees when needed.

(c) To spearhead and to reinforce all community and public relations work of the Corporation.

4.5 Term of Directors:

(a) Each of the thirteen (13) Directors appointed by individual Commissioners of Miami-Dade County shall serve a term which shall end concurrently with the last day of the term of the County Commissioner who appointed said Director. Individual County Commissioners who are reelected to office must officially appoint, or re-appoint if desired, a Director as his or her appointment for the new term following the process in section 4.2.a.vi.

(b) Each of the six (6) Directors appointed by the Board of Commissioners of Miami-Dade County At-Large shall be appointed for a three (3) year term and shall be permitted to serve up to two full consecutive three (3) year terms, and may be re-appointed to the Board of Directors after ceasing to be a Director for one (1) year.

(c) Each of the two (2) Directors appointed by the Mayor of Miami-Dade County shall serve a term which shall end concurrently with the last day of the term of the Mayor. In the event that the Mayor is reelected to office, he or she must officially appoint, or re-appoint if desired, each of the two (2) Directors as his or her appointments for the new term following the process in section 4.2.a.vi.

(d) Each of the six (6) Directors appointed by the City of Miami and City of Miami Beach Commissions shall be appointed for a three (3) year term and shall be permitted to serve up to two full consecutive three-year terms, and may be re-appointed to the Board of Directors after ceasing to be a Director for one (1) year following the process in section 4.2.a.vii.

(e) The Director appointed by the Miami-Dade County Public School Board shall serve at the will of the School Board, and shall serve until he/she resigns or is removed.

(f) The terms of the Community Representatives are specified in the Bylaws of the Corporation.

(g) Upon the expiration of a Director's term, that Director shall remain on the Board of Directors until such time as he or she is replaced or is re-appointed by the appropriate appointing authority.

4.6 Filling of Vacancies:

(a) Vacancies in expired or unexpired terms for Community Representatives to the Board of Directors caused by resignation, removal or death shall be filled according to the process provided in Section 4.8 of the Bylaws of the Corporation.

(b) For those Directors appointed by the County Commissioners, County Commission At-Large and Mayor, if a vacancy occurs prior to the expiration of the original appointing authority's term, the individual County commissioner, commission or the Mayor who appointed that Director shall appoint a new member to fill the vacancy following the process in section 4.2.a.vi.

(c) For those Directors appointed by the City of Miami Commission and City of Miami Beach Commission, if a vacancy occurs prior to the expiration of the Director's term,

the Commissions shall appoint a new member to fill the vacancy following the process in section 4.2.1.v1.

(d) In filling any vacancy to be filled by Local Governmental Authorities the replacement Director shall hold office for the unexpired term of his/her predecessor in office.

(e) The Miami-Dade County Public School Board shall appoint a person to fill any vacancy for their Director position.

4.7 Removal of Directors:

Any Director may be removed for cause as determined by the Corporation, including violation of Board policy, by the affirmative vote of the majority of the Board of Directors, provided such Director has been given prior notice that the subject of his/her removal will be presented to the Board at a duly noticed meeting.

4.8 Financial Disclosure:

Directors shall file the same Florida Financial Disclosure Statements required of state officers. Other than compliance with Financial Disclosure requirements, the provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance shall not apply to the Directors.

4.9 The Sunshine Law:

The Board of Directors shall comply with Florida Government in the Sunshine Law in the conduct of all its meetings to the same extent as if it were an elected body.

4.10 Public Records Act:

The Corporation's records will be open to public inspection in accordance with the Florida Public Records Act to the same extent as if it were a government agency.

ARTICLE V
COMMITTEES

The initial Standing Committees of the Board of Directors shall be the Executive Committee, Finance Committee, Audit Committee and Nominating and Governance Committee. The purposes and membership of the Standing Committees shall be set forth in the Bylaws of the Corporation. The Board of Directors may establish from time to time, such additional Standing or ad hoc Committees as shall be deemed appropriate, with such additional Committees to exercise such duties, powers and authorities as may be delegated by resolution of the Board of Directors.

ARTICLE VI **MEMBERSHIP**

6.1 Non-voting Members:

The Board of Directors may establish one or more types of nonvoting members of the Corporation by resolution. Non-voting membership shall be open to any person, family, corporation or other entity upon receipt of a written application for membership and payment of annual dues applicable to the class of membership specified in the application.

6.2 Creation of Non-voting Memberships:

The Corporation's Executive Committee shall, after consultation with the President, present recommendations to the Board regarding classes of nonvoting membership and the respective dues, and other benefits applicable to each class. The Board of Directors shall consider such recommendations, revise them as the Board deems necessary and proper, and promulgate a schedule of such classes, dues, rights and benefits. Such schedule may be amended from time to time by the Board of Directors, after consultation with the Executive Committee and the President. Nonvoting Membership shall terminate upon death (of an individual member), resignation of the member, upon the failure of a member to pay annual dues or as otherwise provided in the Bylaws of the Corporation.

ARTICLE VII **MISCELLANEOUS PROVISIONS**

7.1 Execution of Corporate Instruments:

The Board of Directors may designate the officers and agents who shall have authority to execute any instrument on behalf of the Corporation. When the execution of any contract, conveyance or other instrument arises in the ordinary course of the Corporation's activities, or has been authorized without specification of the executing officers, any two of the officers may execute the same in the name and behalf of the Corporation and may affix the corporate seal thereto. No person holding more than one office shall execute, acknowledge or verify an instrument in more than one capacity.

7.2 Depositories:

All moneys, securities and other valuables of the Corporation shall be deposited in the name of the Corporation in such banks trust companies, or corporate safe deposit vaults as the Board of Directors from time to time shall designate for such purposes, and shall be withdraw able only by check or orders signed by, the personal signature of such officers or agents as may be designated from time to time by the Board of Directors. At least two signatures shall be required on all such checks or orders.

7.3 Indemnification of Officers and Directors:

Each person who acts as a Director or Officer of the Corporation shall be indemnified by the Corporation to the fullest extent permitted by law against any costs and expenses which may

be imposed upon or reasonably incurred by him/her in connection with any action, suit or proceeding in which he/she may be named as a party defendant by reason of his/her being or having been such Director or Officer, or by reason of an action alleged to have been taken or omitted by him/her in either such capacity; provided however, that the Corporation shall not indemnify any such person against any costs or expenses imposed upon or incurred by him/her in relation to matters as to which he/she shall be finally adjudged to be liable to the Corporation for negligence, misconduct or any other cause, or for any sum paid by him to the Corporation in settlement of an action, suit or proceeding based on his/her alleged dereliction of duty. This right of indemnification shall inure to each Director and officer whether or not he/she is such Director or officer at the time such costs or expenses are imposed or incurred, and whether or not the claim asserted against him/her is based on matters which antedate the adoption of these Articles of Incorporation; and in the event of his/her death shall extend to his/her legal representatives. Each person who shall act as Director or officer shall be deemed to be doing so in reliance upon such right or indemnification; and such right shall not be exclusive of any other right which he/she may have. The Corporation shall have power to purchase and maintain insurance to indemnify the Corporation and its Directors and Officers to the full extent such insurance is permitted by law.

7.4 Parliament:

Robert's Rules of Order Revised shall govern the proceedings of the Corporation, including its Board and Committees, to the extent applicable and consistent with these Articles of Incorporation and the Bylaws of the Corporation.

7.5 Advisor:

The President shall serve as an advisor to the Board of Directors and shall maintain full consultative relationships with the Board of Directors and all Committees thereof.

7.6 Corporate Records:

Corporate records shall be available for open review according to federal and state regulations.

ARTICLE VIII
AMENDMENT OF ARTICLES OF INCORPORATION

The Articles of Incorporation of this Corporation may, in any particular, be repealed, and new Articles of Incorporation, not inconsistent with any provision of law, may be adopted, either by (i) the affirmative vote of two-thirds of the voting members of the Corporation present at a duly-noticed annual or special meeting of the members at which a quorum is in attendance, or (ii) by the affirmative vote of two-thirds of the Directors present at any regular or special meeting of the Board at which there is a quorum; provided, however, that the Directors shall neither make nor alter any article regarding their qualifications, classifications, or term of office, nor relating to requirements of a quorum for any meeting of the members of the Corporation, and that at least ten (10) days' notice of such proposed amendment shall have been furnished to all of the Directors; provided further, that any such amendment adopted by the Board of Directors must be ratified by the affirmative vote of a majority of the Board of Commissioners of Miami-Dade County. Any proposed amendments must be approved by a majority of the Board of Commissioners of Miami-Dade County before becoming effective.

ARTICLE IX
DISSOLUTION

Upon dissolution, all of the Corporation's assets remaining after payment of all costs and expenses of such dissolution shall be distributed to the Board of Commissioners of Miami-Dade County and the City Commissioners for a public purpose.

ARTICLE X
REGISTERED OFFICE AND AGENT

The registered office of this Corporation is at 1111 Brickell Avenue, Miami, Florida 33131, and the registered agent of this Corporation at such office is Parker D. Thomson, who upon accepting this designation agrees to comply with the provisions of Sections 48-091, 617-023, 607.0501 and 607-0502, Florida Statutes, as amended from time to time, with respect to keeping an office open for service of process.

ARTICLE XI
INCORPORATORS

The Incorporator of the Corporation was Parker D. Thomson, whose address is 1111 Brickell Avenue, Miami, Florida 33131. The name and street address of the persons signing these Amended and Restated Articles of Incorporation are:

Name Address

Parker D. Thomson
1111 Brickell Avenue
Suite 1900
Miami, FL 33131

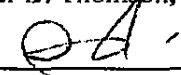
I. Stanley Levine
Levine & Associates
1110 Brickell Avenue, #700
Miami, FL 33131

[signatures on following page]

IN WITNESS WHEREOF, the undersigned, being the Chair and Secretary of the Corporation, have hereunto set their hands and seals this 30th day of May, 2006.




Parker D. Thomson, Chair



Stanley Levine, Secretary

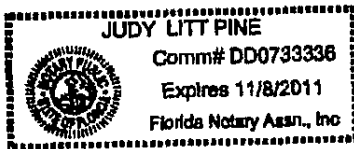
Attest:



I. Stanley Levine, Secretary

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

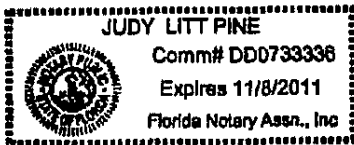
I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this
30th day of May, 2006, by Parker D. Thomson, who is personally known to
me (Yes) (No) and who did not take an oath.



Judy Litt Pine
Notary Public
State of Florida at Large
JUDY LITT PINE
Printed Name of Notary Public
My Commission Expires: 11/8/11

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 30th, day of May, 2006, by I. Stanley Levine, who is personally known to me (Yes) ~~(No)~~ or who produced _____ as identification and who (did) (did not) take an oath.



Judy Litt Pine (SEAL)
Notary Public
State of Florida at Large
JUDY LITT PINE
Printed Name of Notary Public
My Commission Expires: 11/8/11

**Articles of Amendment
to
Articles of Incorporation
of**

Performing Arts Center Trust, Inc.

(Name of corporation as currently filed with the Florida Dept. of State)

N44566

(Document number of corporation (if known))

Pursuant to the provisions of section 617.1006, Florida Statutes, this ***Florida Not For Profit Corporation*** adopts the following amendment(s) to its Articles of Incorporation:

NEW CORPORATE NAME (if changing):

n/a

(must contain the word "corporation," "incorporated," or the abbreviation "corp." or "inc." or words of like import in language; "Company" or "Co." may **not** be used in the name of a not for profit corporation)

AMENDMENTS ADOPTED- (OTHER THAN NAME CHANGE) Indicate Article Number(s) and/or Article Title(s) being amended, added or deleted: **(BE SPECIFIC)**

See attached.

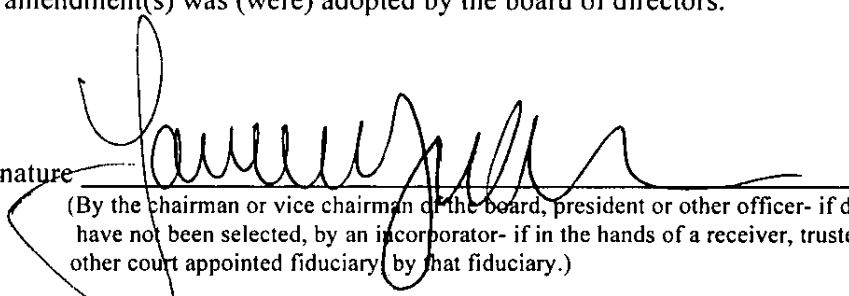
The date of adoption of the amendment(s) was: July 18, 2006

Effective date if applicable: _____
(no more than 90 days after amendment file date)

Adoption of Amendment(s) (CHECK ONE)

- ☐ The amendment(s) was (were) adopted by the members and the number of votes cast for the amendment was sufficient for approval.
- ☒ There are no _____ members entitled to vote on the amendment. The amendment(s) was (were) adopted by the board of directors.

X Signature


(By the chairman or vice chairman of the board, president or other officer- if directors have not been selected, by an incorporator- if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary.)

LAWRENCE WILKER

(Typed or printed name of person signing)

PRESIDENT & CEO

(Title of person signing)

FILING FEE: \$35