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LANDFIELD, BECKER & GREEN

1220 NINETEENTH STREET, N.W.

WASHINGTON, D.C. 20036

(202) 775-0300

TELEX: 197629 LABEC

RICHARD LANDFIELD WILLIAM W. BECKER ROY E. GREEN FELICIA A. ALTMEYER OF COUNSEL
RALPH E. BECKER
HAROLD C. PETROWITZ

September 16, 1985

Henry Gilchrist, Esquire Jenkens & Gilchrist 2000 Interfirst One Dallas, Texas 75202

Dear Mr. Gilchrist:

Tom Mader and Peg Allen have asked me to address issues raised in connection with the establishment and operation of a Dallas auxiliary of the Friends of the Kennedy Center. This letter will review the legal organization of the Friends, including its tax status, and summarize procedures that may be followed in establishing and operating the Dallas group.

As you may know, the John F. Kennedy Center for the Performing Arts was established by Act of Congress as a bureau of the Smithsonian Institution, vested with authority to administer the John F. Kennedy Center as a living memorial in memory of the late President. A copy of a compilation of the John F. Kennedy Center Act is enclosed for your information. Kennedy Center's Board of Trustees, its governing body, created the Friends of the Kennedy Center as a Committee of the Board, by a resolution adopted in 1965 (enclosed). Since that date, the Friends has undertaken numerous and important responsibilities and functions to support the Board in carrying out its mandates under the John F. Kennedy Center Act, functions with which I am sure the Dallas group is familiar. Shortly after it was organized, the Friends of the Kennedy Center adopted their own by-laws. A copy of the Friends by-laws, as now constituted, also is enclosed.

Because it is a committee of the Board of Trustees and not a separate legal entity and operates under the control and direction of the Board of Trustees, the Friends of the Kennedy Center has the tax status of the institution of which it is part. Kennedy Center, then known as the National Cultural Center, first was determined to be exempt from tax under

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Section 501(c)(3) of the Internal Revenue Code in a letter determination dated March 13, 1959. Kennedy Center subsequently was determined to be a publicly supported organization and not a private foundation under Section 509(a) and Section 170(b)(l)(A)(vi) of the Internal Revenue Code. Copies of various determination letters of the Internal Revenue Service are enclosed for your information.

Given this background, it is important that the Dallas auxiliary of the Friends of the Kennedy Center be organized and operated in a manner that is consistent with the establishment and operations of the Friends as a committee of the Board. Nonetheless, it is entirely appropriate to give the Dallas group a separate identity with responsibility for its day-to-day activities, and to provide for earmarking funds contributed by the Dallas group for Kennedy Center activities relating to interests of the Dallas Friends. With these parameters in mind, Tom Mader has suggested some guidelines:

Members of the Friends of the Kennedy Center from the Dallas area would be called the Dallas Friends of the Kennedy Center, and be established as an auxiliary of the Friends of the Kennedy Center national organization, with overall policy and guidelines determined in cooperation with the National Council of the Friends of the Kennedy Center and the national office. The Dallas organization, composed of dues-paying members and volunteers, may have, if it wishes, a president, a treasurer, and whatever other officers serving in a voluntary capacity the president deems necessary to fulfill the functions of the Dallas Friends.

The purpose of the Dallas extension would multi-fold: to build membership, to raise funds for the Kennedy Center's programs, to foster awareness of its role as the National Cultural Center, to encourage support for the Center's national outreach programs in the Dallas area, and to encourage participation by Dallas members in Kennedy Center activities, in Dallas, Washington and elsewhere.

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The national office would keep the Dallas members abreast of Kennedy Center activities through frequent mailings of press releases, Kennedy Center News, and reports. Staff would be available to provide additional information and to answer an questions from the Dallas officers and members.

Fundraising activities and membership events would be designed and executed by the Dallas Friends, with the involvement and cooperation of the national office.

To streamline the income/expenditure process, a bank account will be set up in Washington by the national office for the Dallas Friends of the Kennedy Center. A starting fund will be placed in this account, and checks for expenses incurred by the Dallas group would be drawn on that account. Signatories of checks would be designated with approval of Kennedy Center's Board of Trustees. Membership contributions and fundraising income from Dallas would be sent to the national office to be processed and deposited in this account, and would be earmarked for activities designated by the Dallas auxiliary.

Kennedy Center would welcome any thoughts about the organization and operations of the Dallas group that you and other members of the group may have.

Please let me know if I can be of any further assistance or provide further information to you.

Sincerely,

William W. Becker

WWB/lh

Enclosures

cc: Roger L. Stevens
Tom Mader
Caroline Hunt Schoellkopf
Annette G. Strauss
Linda McElroy
John Roberts, Esquire



JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

JOHN F. KENNEDY CENTER ACT

[20 U.S.C. Sec. 76h-76q (pp. 1985]

Public Law 85-874, Sept. 2, 1958, 72 Stat. 1698 Amended Pub. L. 86-297, Sept. 21, 1959, 73 Stat. 573 Amended Pub. L. 88-100, Aug. 19, 1963, 77 Stat. 128 Amended Pub. L. 88-260, Jan. 23, 1964, 78 Stat. 4 1967 Reorg. Plan No. 3, §401, eff. Aug. 11, 1967, 81 Stat. 951 Amended Pub. L. 91-90, Oct. 17, 1969, 83 Stat. 135 Amended Pub. L. 92-313, June 16, 1972, 86 Stat. 222 Amended Pub. L. 93-67, July 10, 1973, 87 Stat. 161 Amended Pub. L. 93-198, Dec. 24, 1973, 87 Stat. 789 Amended Pub. L. 94-119, Oct. 21, 1975, 89 Stat. 608 Amended Pub. L. 94-578, Oct. 21, 1976, 90 Stat. 2737 Amended Pub. L. 95-50, June 20, 1977, 91 Stat. 232 1977 Reorg. Plan No. 2, 42 Fed. Reg. 62,461, 91 Stat. 1636 Amended Pub. L. 95-305, June 29, 1978, 92 Stat. 348 Amended Pub. L. 96-88, Oct. 17, 1929, 93 Stat. 682, 695 Amended Pub. L. 96-587, Dec. 23, 1980, 94 Stat. 3387 Amended Pub. L. 97-73, Nov. 3, 1981, 95 Stat. 1064 Amended Pub. L. 97-202, June 24, 1982, 96 Stat. 128 Amended Pub. L. 97-241, Aug. 24, 1982, 96 Stat. 291 Amended Pub. L. 98-205, Dec. 2, 1983, 97 Stat. 1388 Amended Pub. L. 98-473, Oct. 12, 1984, 98 Stat. 1876

AN ACT

To provide for a John F. Kennedy Center for the Performing Arts which will be constructed, with funds raised by voluntary contributions, on a site made available in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This Act may be cited as the "John F. Kennedy Center Act."

BOARD OF TRUSTEES

SEC. 2.(a) There is hereby established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this subchapter, referred to as the "Board"), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof and to execute such other functions as are vested in the Board by this subchapter. The Board shall be composed as follows: The Secretary of Health and Human Services, the Librarian of Congress, the Director of the United States Information Agency, the Chairman of the Commission of Fine Arts, the Mayor of the District of

Columbia, the Chairman of the District of Columbia Recreation Board, the Director of the National Park Service, the Secretary of Education, the Secretary of the Smithsonian Institution, three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

- (b) The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of ten years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of any members appointed prior to August 19, 1963, shall expire as designated by the President at the time of appointment, and (3) the terms of the first fifteen members appointed to the Board pursuant to the amendments made by the National Cultural Center Amendments Act of 1963 shall expire, as designated by the President at the time of appointment, three on September 1, 1964, three on September 1, 1966, three on September 1, 1968, three on September 1, 1970, and three on September 1, 1972.
- (c) There shall be an Advisory Committee on the Arts composed of such members as the President may designate, to serve at the pleasure of the President. Persons appointed to the Advisory Committee on the Arts, including officers or employees of the United States, shall be persons who are recognized for their knowledge of, or experience or interest in, one or more of the arts in the fields covered by the John F. Kennedy Center for the Performing Arts. The President shall designate the Chairman of the Advisory Committee on the Arts. In making such appointments the President shall give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in the appropriate art fields. The Advisory Committee on the Arts shall advise and consult with the Board and make recommendations to the Board regarding existing and prospective cultural activities to be carried on in the John F. Kennedy Center for the Performing Arts. The Advisory Committee on the Arts shall assist the Board in carrying out section 5(a) of this title. Members of the Advisory Committee on the Arts shall serve without compensation, but each member of such Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in connection with the work of such Committee.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

SEC. 3. The Board shall construct for the Smithsonian Institution, with funds raised by voluntary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south, Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

DUTIES OF THE BOARD

- SEC. 4. (a) The Board shall --
- (1) present classical and contemporary music, opera, drama, dance, and poetry from this and other countries,
 - (2) present lectures and other programs,
- (3) develop programs for children and youth and the elderly (and for other age groups as well) in such arts designed specifically for their participation, education, and recreation,
- (4) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts,
- (5) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President.
 - (b) (1) Except as provided in paragraph (2) of this subsection, the Board shall assure that after the date of enactment of this subsection, no additional memorials or plaques in the nature of memorials shall be designated or installed in the public areas of the John F. Kennedy Center for the Performing Arts.
- (2) Paragraph (1) of this subsection shall not apply to --
- (A) any plaque acknowledging a gift from a foreign country;

- (B) any plaque on a theater chair or a theater box acknowledging the gift of such chair or box; and
- (C) any inscription on the marble walls in the north or south galleries, the Hall of States, or the Hall of Nations acknowledging a major contribution;

which plaque or inscription is permitted under policies of the Board in effect on the date of enactment of this subsection.

(3) For purposes of this subsection, testimonials and benefit performances shall not be construed to be memorials.

POWERS OF THE BOARD

- SEC. 5. (a) The Board is authorized to solicit and accept for the Smithsonian Institution and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the John F. Kennedy Center for the Performing Arts. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the John F. Kennedy Center for the Performing Arts. The income as and when collected shall be placed in such depositaries as the Board shall determine and shall be subject to expenditure by the Board.
- (b) The Board shall appoint and fix the compensation and duties of a director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board. The director, assistant director, and secretary shall be well qualified by experience and training to perform the duties of their office.
- (c) The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

ADMINISTRATION

SEC. 6. (a) The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this Act, including, among other matters, bylaws, rules and regulations relating to the

administration of its trust funds and the organization and procedure of the Board. The Board may function notwithstanding vacancies and twelve members of the Board shall constitute a quorum for the transaction of business.

- (b) The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.
- (c) The Board shall submit to the Smithsonian Institution and to Congress an annual report of its operations under this Act, including a detailed statement of all public and private moneys received and disbursed by it.
- (d) The Board shall transmit to Congress a detailed report of any memorial which it proposes to provide within the John F. Kennedy Center for the Performing Arts under authority of paragraph (5) of section 4[a] of this Act, and no such memorial shall be provided until the Board of Regents of the Smithsonian Institution shall have approved such memorial.
- The Secretary of the Interior, acting through (e) the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is authorized to be appropriated to carry out this subsection not to exceed \$2,800,000 for the fiscal year ending June 30, 1976, \$741,000 for the transition period ending September 30, 1976, \$3,100,000 for the fiscal year ending September 30, 1077, and \$4,000,000 for the fiscal year ending September 30, 1978. There is authorized to be appropriated to carry out this subsection not to exceed \$4,200,000 for the fiscal year ending September 30, 1979. There is authorized to be appropriated to carry out this subsection not to exceed \$4,287,000 for the fiscal year ending September 30, 1980, and not to exceed \$4,400,000 for the fiscal year ending September 30, 1981, and not to exceed \$4,544,000 for the fiscal year ending September 30, 1982, and not to exceed \$4,247,000 for the fiscal year ending September 30, 1983.
- (f) The General Accounting Office is authorized and directed to review and audit, regularly, the accounts of the Kennedy Center for the Performing Arts, for the purpose of determining the continuing ability of the Center to pay its share of future operating costs, and for the purpose of assuring that the cost-of-living formula fairly and accurately reflects the use of the building.

TERMINATION

- SEC. 7. (a) This Act shall cease to be effective, and all offices created by this Act and all appointments made under this Act shall terminate, if the Board of Regents of the Smithsonian Institution does not find that sufficient funds to construct the John F. Kennedy Center for the Performing Arts have been received by the Trustees of the John F. Kennedy Center for the Performing Arts within eight years after September 2, 1958.
- (b) If the offices of Trustees of the John F. Kennedy Center for Performing Arts terminate under the provisions of subsection (a) of this section, all funds and property (real and personal) accepted by the Trustees of the John F. Kennedy Center for the Performing Arts under section 5(a) of this Act, and income therefrom, shall vest in the Board of Regents of the Smithsonian Institution and shall be used by the Board of Regents of the Smithsonian Institution to carry out the purposes of the Act entitled "An Act to provide for the transfer of the Civil Service Commission Building in the District of Columbia to the Smithsonian Institution to house certain art collections of the Smithsonian Institution," approved March 28, 1958, and for the acquisition of works of art to be housed in the building referred to in such Act; except that such funds or property, and the income therefrom, shall vest in an organization designated by the donor of such funds or property at the time of the making of the donation thereof, if, at such time, such organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt under section 501(a) of such Code, and if, at such time, a contribution, bequest, legacy, devise, or transfer to such organization is deductible under section 170, 2055, or 2106 of such Code.

APPROPRIATIONS

- SEC. 8. (a) There is hereby authorized to be appropriated to the Board for use in accordance with this Act, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this Act, except that not to exceed \$23,000,000 shall be appropriated pursuant to this subsection.
- (b) There is hereby authorized to be appropriated to the Board not to exceed \$1,500,000 for the fiscal year ending June 30, 1972, for the public costs of maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts.

(c) There are authorized to be appropriated to the Secretary of the Interior, acting through the National Park Service, not to exceed \$4,700,000 for repair, renovation, and reconstruction of the John F. Kennedy Center for the Performing Arts necessary to correct water leaks in the roof, the terraces, the kitchen, and the East Plaza Drive and to correct any damage which has resulted from those leaks. No contract shall be entered into for any property or services necessary to carry out this subsection unless such contract has been approved by the Board, and no final payment for such property or services shall be made under any such contract unless such payment has been approved by the Board. No part of the funds authorized by this subsection shall be expended under any cost-plus-a-percentage-of-cost, cost-plus-a-fixed-fee, or similar incentive-type contract. authorized by this subsection shall be expended under a contract only after advertising and competitive bidding for the property or services to be provided by such contract.

BORROWING AUTHORITY

- SEC. 9. (a) To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than \$20,400,000. Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Board's obligations under this section.
- (b) Effective as of the date of enactment of this subsection the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.
- (c) There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the "Fund"), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of

such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of \$200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a resulf of fluctuations in interest rates over the life of the investments: Provided, however, That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.

GIFTS TO THE UNITED STATES

SEC. 10. The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which he finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation of other account, including the appropriation accounts established pursuant to appropriations authorized by this Act, as in his judgment will best effectuate the intent of the donor.

NATIONAL MEMORIAL

SEC. 11. The John F. Kennedy Center for the Performing Arts, designated by this Act, shall be the sole national memorial to the late John Fitzgerald Kennedy within the city of Washington and its environs.

NOTE. -- Public Law 88-260 entitled "Joint Resolution providing for renaming the National Cultural Center as the John F. Kennedy Center for the Performing Arts, authorizing an appropriation therefor, and for other purposes", approved January 23, 1964, contained the following preamble:

"WHEREAS the late John Fitzgerald Kennedy served with distinction as President of the United States, and as a Member of the Senate and House of Representatives; and "WHEREAS the late John Fitzgerald Kennedy dedicated his life to the advancement of the welfare of mankind; and "WHEREAS the late John Fitzgerald Kennedy was particularly devoted to the advancement of the performing arts within the United States; and "WHEREAS by his untimely death this Nation and the world has suffered a great loss; and "WHEREAS it is the sense of the Congress that it is only fitting and proper that a suitable monument be dedicated to the memory of this great leader; and "WHEREAS the living memorial to be named in his honor by this joint resolution shall be the sole national monument to his memory within the city of Washington and its environs."

Compiled August 1985

6786A/83B

ADMINISTRATIVE RESOLUTION CREATING A "SPECIAL COMMITTEE KNOWN AS THE NATIONAL COMMITTEE OF FRIENDS OF THE KENNEDY CENTER" TO BE ADOPTED BY THE BOARD OF TRUSTEES OF THE KENNEDY CENTER

BE IT RESOLVED, That there is hereby created a department of the John F. Kennedy Center for the Performing Arts to be known as "The National Committee of Friends of the Kennedy Center." The following Administrative Regulations are adopted for the governance of this department, hereinafter referred to as the "National Committee";

1. Creation by the Board of Trustees

The National Committee is a part of the John F. Kennedy Center and has its existence and powers from the Board of Trustees, at the pleasure thereof.

2. Membership of the National Committee

The members of the National Committee shall be as follows:

- a. All Trustees of the Center are ex officio members.
- b. Other members and the dues payment for qualifications for each class of member should be:

Organizing Members - \$25 annually Regular Members - \$15 annually Student Members - \$ 5 annually

All members except student members are classed as active members, with vote. Student members shall receive all benefits of membership but shall have no vote.

Membership shall be terminated for non-payment of dues and re-instated upon payment thereof.

3. The National Council

- a. The National Council of the National Committee shall be composed as follows:
 - (1) All officers of the John F. Kennedy Center shall be ex officio members of the National Council, with vote.

- (2) Three Trustees shall be elected members of the National Council by the Board of Trustees.
- (3) Six persons (not Trustees) shall be elected members of the National Council by the membership of the National Committee.
- b. Elected members of the National Council, both Trustees and non-Trustees, are elected for one year. There is no limit on re-election.
- c. Officers of the National Committee and officers of the National Council shall be the same, namely, Chairman, Vice Chairman, Secretary and Treasurer. These officers shall be elected by the National Council from the membership of the National Council.
- d. Additional regional Vice Chairmen may be elected, at the discretion of the National Council, by the National Council. Regional Vice Chairmen are ex officio members of the National Council without vote.
- e. The Chairman, with the approval of the National Council, can appoint special committees as may be necessary to carry out its functions.
- f. Vacancies in National Council members elected by the members of the National Committee shall be filled by the National Council. Other vacancies shall be filled by the Board of Trustees of the John F. Kennedy Center.

4. Nominations and Elections

- a. Trustee members of the National Council shall be nominated and elected at the annual meeting of the Board of Trustees.
- b. Members of the National Council to be elected by the membership shall be elected by plurality mail ballot from:
 - (1) Persons nominated by a nominating committee, which shall be appointed by the Chairman two months before the election, or
 - (2) Persons nominated by petition by the members of the National Committee. No more than two persons may be nominated by a single petition.
- c. Mail ballots shall be posted no later than one month before the expiration of the terms of incumbent elected members of the National Council. Ballots received on or before the date of expiration of terms of incumbent members shall be counted; ballots received later than that date shall not be counted. Ballots shall be mailed to the Secretary of the National Council, c/o John F. Kennedy Center for the Performing Arts, Washington, D.C., and shall be counted by the officers of the Council.

5. Local and Regional Organization

- a. Local chapters of the National Committee shall be created upon their application by approval of the National Council.

 Local chapters shall elect their own officers, but shall be specifically bound in all respects by the provisions of these Administrative Regulations in all respects.
- b. Regional organizations shall be formed from time to time as desirable by action of the National Council.

6. Duties of Officers

- a. Chairman The Chairman shall preside at all meetings of the National Committee and the National Council and shall be the chief executive officer of the National Committee. He shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the National Council from time to time. He shall be an ex officio member of all committees except the Nominating Committee.
- b. Vice Chairman The Vice Chairman shall perform such duties and have such powers as may be delegated to him. The Vice Chairman shall serve as Chairman in his absence or in the event of his inability to perform his duties. He may appoint special committees and have the power to act as Chairman.
- c. <u>Treasurer</u> The Treasurer will keep the accounts of the National Committee and shall have the care and custody of all monies belonging to the National Committee, except as otherwise provided in Section 14, <u>supra</u>, and shall keep proper books and records showing all receipts and expenditures, shall render an annual report in writing as to the financial condition of the National Committee and as from time to time may be requested by the National Committee or the National Council. He shall furnish surety bond as the National Council may from time to time require. He shall exercise all duties incident to the office of Treasurer.
- d. Secretary The Secretary shall keep the minutes of the minutes of the meetings of the members and the National Council, see that all notices are duly given in accordance with these regulations or as required by law. He shall be custodian of all records and papers relating to the business of the National Committee and the National Council. He shall be permitted to attend all meetings of all committees except the Nominating Committee.

7. Purposes and Objectives

The purpose of the National Committee shall be to extend the interests of the Center by developing activities and programs to bring attention to the Center, its purposes and plans; and to enlist the active support of the Center by members of the National Committee. Specific objectives of the National Committee will be developed by the National Council from time to time, subject at all times to disapproval of the Trustees of the John F. Kennedy Center.

8. Programs

Programs of the National Committee, or its regional or local parts, shall be developed by the National Council, or if developed by membership, subject to approval by the National Council.

Activities and projects of the Committee and its regional and local parts, including benefits and other fund-raising projects, shall be carried on only as detailed portions of a program of activities approved by the National Council.

Programs shall be coordinated by the National Council with activities of the Development Committee and the Program Committee of the Center, so as to avoid conflicts.

9. Meetings

- a. Annual Meeting The Annual Meeting of the National Committee shall be held the second Monday in February in Washington, D.C., or at such other place as may be designated by the National Council, at which time the election of officers for the ensuing year shall be held.
- b. Special Meetings Special Meetings may be called at any time by the Chairman. Special Meetings may also be called by the National Council upon filing with the Secretary of the National Committee a written request of at least three members of the National Council.

10. Notices of Meetings

Notices of any Annual or Special Meeting of the National Committee shall be mailed, telephoned or telegraphed to all members of the National Committee at least fifteen days before the date of such meeting.

Notices of any Special or Annual Meeting of the National Council shall be mailed, telephoned or telegraphed to all members of the National Council at least seven days before the date of such meeting.

11. Waiver of Notice

Whenever any notice is required to be given under the provisions of these Administrative Regulations, a waiver thereof, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent thereto.

12. Quorum

Seven members of the National Council shall constitute a quorum for the conduct of business.

Twenty-five members of the National Committee shall constitute a quorum for the transaction of business.

If a quorum shall not be present at any meeting of the National Council or National Committee, the members present may adjourn the meeting from time to time without notice other than an announcement at the meeting until a quorum shall be present.

13. Proxy

No member of the National Committee or National Council may vote by proxy.

14. Budget and Expenditures

- a. The Fiscal Year of the National Committee shall coincide with the Fiscal Year of the Board of Trustees of the Kennedy Center.
- b. The budget of the National Committee shall be approved annually by the National Council. The budget may provide for office space, if not furnished by the John F. Kennedy Center; an Executive Secretary; clerical assistance; telephone; postage; stationery; printing, and other ordinary and customary office expense.

The budget may also include allocations of funds for programs, activities or events approved by the National Council, but no budget appropriation shall be made for any program, activity or event not approved by the National Council.

Expenditures in excess of budget allocations must receive the specific approval of the National Council.

- c. The budget shall be executed from funds received by and through the National Committee. The John F. Kennedy Center assumes no responsibility for any obligation incurred by the National Committee.
- d. Funds, including membership fees received by the National Committee, shall be deposited in an account in a bank designated by the National Council as follows: "John F. Kennedy Center for the Performing Arts, National Committee of Friends Special Account."
- e. Expenditures, including all checks, drafts, or orders for payment of money and vouchers, shall be made upon the signature of the Treasurer of the National Committee and the countersignature of the Treasurer or Assistant Treasurer of the Kennedy Center.
- f. An amount not to exceed one-tenth of the annual budget shall be retained in the Special Account at the end of each budget year. Funds in the Special Account in excess of this amount at the end of each budget year shall be transferred to the Endowment Funds of the John F. Kennedy Center, unless specific approval is given by the Board of Trustees to retention in the Special Account of excess funds.

- g. All personnel hired by the National Council, including the Executive Secretary, shall be under the general direction and supervision of the Administrative Officer of the John F. Kennedy Center, as to performance of their duties as assigned by the National Council.
- h. The National Committee and National Council shall keep accurate and complete books and records of account, and shall also keep minutes of their proceedings and a record of names and addresses of their membership which shall always be available to the Board of Trustees of the Kennedy Center. The accounts of the National Committee shall be subject to annual audit by the auditor of the John F. Kennedy Center.
- An annual report shall be made by the National Committee and the National Council to the Board of Trustees of the John F. Kennedy Center.

15. Ballot by Mail

Any action required or permitted to be taken at any meeting of the Council may be taken without a meeting by a mail ballot of that Council, provided that prior to such action notice of the proposed action is mailed, telephoned or telegraphed to all the members of the Council and a written consent of said action and waiver of notice is signed by a majority of the members of the Council and such written consent is filed with the minutes of the proceedings of the Council.

16. Amendments

- a. Proposals for changes in these Administrative Regulations may be recommended by the Council to the Board of Trustees. The Board of Trustees may itself initiate changes in these Administrative Regulations. No change in these Regulations shall be effective until approved by resolution of the Board of Trustees.
- of Trustees which conflicts with the John F. Kennedy Center Act, as amended, or with the Bylaws of the Trustees of the John F. Kennedy Center.

Prepared by: Ralph E. Becker General Counsel

FRIENDS BY-LAWS ADOPTED

Kennedy Center's Board of Trustees approved new By-laws for the Friends at the Trustee meeting on April 27. These By-laws increase representation of Friends membership on the National Council from six to 12 and establish the position of Executive Director, responsible for day-to-day Friends operations. Thomas Mader has been designated as Executive Director.

This action followed review of the Friends' organizational structure for the first time since the Friends were organized in 1965 by resolution of the Board of Trustees. After the review, attorney Michael X. Morrell, a member of the National Council, and Kennedy Center Associate Counsel Bill Becker prepared the By-laws that were adopted, with a change recommended by Lily Guest.

After Board of Trustee approval, the National Council of the Friends adopted procedures to implement the new By-laws at the Council meeting on May 23. A seven-member nominating committee will consider candidates for nomination on September 7. Nine nominations will be announced, of whom six will be elected by the membership for two-year terms. Terms will begin at the November 1983 meeting.

In carrying out his responsibilities, the Executive Director will report directly to the Chairperson of the National Council and the Chairman of the Board of Trustees. All Friends personnel will report to the Executive Director.

The By-laws also set a limit on service of officers and Councilmembers to two consecutive two-year terms. Officers are elected annually at the winter meeting of the National Council.

BY-LAWS

of

FRIENDS OF THE KENNEDY CENTER

ARTICLE I. NAME

The name of the organization is "Friends of the Kennedy Center." The Friends of the Kennedy Center (hereinafter Friends) is a committee of the John F. Kennedy Center for the Performing Arts (hereinafter Center) and derives its existence and powers from the Board of Trustees of the Center.

ARTICLE II. PURPOSE

The purpose of the Friends is to extend the interests of the Center by developing activities and programs to bring attention to the Center, its purposes and plans; and to provide financial, volunteer, public relations and other appropriate support for the Center. Specific objectives of the Friends will be developed by the National Council of the Friends, subject at all times to the approval of the Trustees of the Center.

ARTICLE III. MEMBERS

The Friends shall have members. All members of the Friends shall be entitled to vote for the election of National Council Members of the Friends. The National Council of the Friends may in its discretion, by resolution, establish the terms and conditions of such membership and the dues which members shall be required to pay. Membership shall be terminated for non-payment of dues and re-instated upon payment thereof.

ARTICLE IV. BOARD OF DIRECTORS

- 1. General Powers. Management and conduct of the affairs of the Friends shall be vested in its National Council.
- 2. Officers. The National Council shall appoint the Chairperson, Vice Chairperson, Treasurer and Secretary, based on an election by the National Council at its annual meeting. The officers shall serve for a two-year term and be eligible for re-election in that position for no more than one additional consecutive two-year term.
- 3. Number and Composition. The National Council shall be composed as follows:
- (a) Ex-Officio National Council Members. The Chairman of the Center, the Director of Operations of the Center and the Executive Director of the Friends shall be ex-officio members of the National Council, each with one

vote. The Director of Operations of Center shall be responsible for liaison between the Friends and the Chairman and Board of Trustees of Center.

- (b) <u>Trustee National Council Members</u>. Four (4) Trustees shall be elected members of the National Council of the Friends by the Board of Trustees.
- (c) <u>Membership National Councilmembers</u>. Twelve (12) members (neither Trustees nor officers of the Center) shall be elected to the National Council of the Friends by the membership of the Friends.
- 4. Tenure. The terms for Trustee and Membership National Councilmembers shall be two years; they shall be eligible for re-election for no more than one additional consecutive two-year term. Two classes of the Membership National Councilmembers shall be established to provide for staggered two-year terms, whereby one-half of them shall face election in odd numbered years and one-half in even numbered years the two classes and the staggered terms shall commence in 1983 with the current six Membership National Councilmembers' terms extended for one year prior to election in 1984, and six new Membersip National Councilmembers' elected in 1983 for standard two-year terms.

ARTICLE V. NOMINATIONS AND ELECTIONS

- 1. Election. Trustee National Councilmembers shall be nominated and elected at the annual meeting of the Board of Trustees. Membership National Councilmembers shall be elected by the members' mail ballot from among the slate of nominees put forth by the Nominating Committee.
- 2. <u>Nomination</u>. The Nominating Committee is a standing committee of the Friends with its members appointed by the National Council at its annual meeting. It shall be responsible for nominating a slate of nominees subject to the approval of the Board of Trustees, numbering one and one-half times the number of Membership National Councilmembers slots to be filled by election, and meeting the eligibility criteria established by the National Councilmembers. In its selection process, the Nominating Committee shall consider any person presented by a member of the Friends, supported by the signatures of ten (10) members of the Friends in good standing.

ARTICLE VI. DUTIES OF OFFICERS

1. Chairperson. The Chairperson shall preside at all meetings of the National Council, and shall perform all duties incident to the office of Chairperson and such other duties as may be prescribed by the National Council from time to time. The Chairperson, with the approval of the National Council may appoint special committees as may be necessary to carry out the functions of the Board and achieve the goals and objectives of the Friends.

- 2. <u>Vice Chairperson</u>. The Vice Chairperson shall perform such duties and have such powers as may be delegated. The Vice Chairperson shall serve as Chairperson in his absence or in the event of his inability to perform his duties.
- 3. Treasurer. The Treasurer shall keep the accounts of the Friends and shall have the care and custody of all monies belonging to the Friends, and shall keep proper books and records showing all receipts and expenditures, shall render an annual report in writing as to the financial condition of the Friends organization and as from time to time may be required by the National Council. He shall exercise all duties incident to the office of Treasurer.
- 4. Secretary. The Secretary shall keep the minutes of the meetings of the National Council, see that all notices are duly given in accordance with these regulations or as required by law. He shall be custodian of all records and papers relating to the business of the Friends organization.
- 5. Executive Director. The Executive Director is the chief operating officer of the Friends organization and shall be responsible for implementation of the policies adopted by the National Council and for the day-to-day administration and operations of the Friends' organization. All personnel of the Friends shall report to the Executive Director and he in turn shall keep informed the Chairperson of the National Council and the Chairperson of the Board of Trustees to ensure that the actions taken by the Executive Director are in accordance with the policies of the National Council and the goals and objectives of the Center.

ARTICLE VII. MEETINGS

- l. <u>In general</u>. Except as otherwise provided in these By-Laws, decisions of the National Council shall be made at duly constituted meetings. Regular meetings shall be held in the District of Columbia or at such other place as may be designated by the National Council. There shall be an annual meeting of the National Council at which time the election of officers for the ensuing year shall be held. Special meetings may be called at any time by the Chairperson. Special meetings may also be called by the National Council upon filing with the Secretary of the National Council a written request of at least five (5) members of the National Council.
- 2. Notice. Regular and special meetings of the National Council or any change in the time or place thereof, must be preceded by notice thereof to each Director. Notices of any meetings of the National Council shall be mailed, telephoned or telegraphed to all members of the National Council at least seven (7) days before the date of such meeting.
- 3. Waiver of Notice. Whenever any notice is required to be given, a waiver signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall satisfy the notice requirement.

- 4. Quorum. A quorum for the transaction of business by the National Council shall be one-third of the total number of Directors in office at the time of the meeting. In the absence of a quorum, a majority of National Councilmembers present may adjourn the meeting.
 - 5. Proxy. No member of the National Council may vote by proxy.
- 6. Action by the National Council without Meeting. Any action required or permitted to be taken at any meeting of the National Council may be taken without a meeting by mail or telephone ballot of the National Council provided that prior to such action, notice of the proposed action is mailed, telephoned, or telegraphed to all National Councilmembers, a written consent and/or waiver is signed by all such members and such written consent and/or waiver of notice is filed with the minutes related to the action taken by the National Council without meeting.

ARTICLE VIII. LOCAL AND REGIONAL ORGANIZATIONS

Local and regional chapters of the Friends may be created upon approval of the National Council provided they comply with the standards established by the National Council.

ARTICLE IX. BUDGET AND EXPENDITURES

- 1. The Fiscal Year of the Friends shall coincide with the Fiscal Year of the Board of Trustees of the Center.
- 2. The budget of the Friends shall be approved annually by the National Council of the Friends and the Board of Trustees.
- 3. The Friends and the National Council shall keep accurate and complete books and records of account, and shall keep minutes of their proceedings and a record of names and addresses of their membership which shall always be available to the Board of Trustees of the Center. The accounts of the Friends shall be subject to annual audit by the auditor of the Center.
- 4. An annual report and quarterly reports, including financial information shall be made by the Friends to the Board of Trustees of the Center.

ARTICLE X. AMENDMENT

These By-Laws may be amended by action of the Board of Trustees or by affimative vote of two-thirds of the National Councilmembers then in office, provided that all amendments by the National Council shall be subject to disapproval by the Board of Trustees at the Trustees' regular meeting next following the date of notice to the Board of Trustees of adoption of amendments by the National Council.



U. S. TREASURY DEPARTMENT WASHINGTON 25

COMMISSIONER OF INTERNAL REVENUE

address reply to commissioner of internal revenue washington 25, d. c. $\text{and refer to} \\ T : R : EO$

RD

MAR 1 3 1959

Dear Mr. Secretary:

As requested in your letter of March 9, 1959, we have given consideration to the status of the National Cultural Center for Federal income tax purposes. Specifically, you ask to be advised as to the position of the Service on the tax status of the Center and the deductibility of gifts and bequests thereto.

The National Cultural Center Act (Public Law 85-874, 85th Congress) establishes in the Smithsonian Institution a bureau to be directed by a Board to be known as the Trustees of the National Cultural Center and authorizes the Board to solicit and accept gifts for the Smithsonian Institution for the benefit of the Center. The Act requires that an annual report of its operations be submitted by the Board to the Institution and provides that in the event the Board of Regents of the Institution finds at the end of five years from the date of enactment that sufficient funds have not been received to erect the center, the Act shall cease to be effective and the funds shall vest in the Institution for other stated purposes.

The Smithsonian Institution on July 11, 1951, was held by the Service to be entitled to exemption from Federal income tax under section 101(6) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(3) of the Code of 1954. As a bureau of the Institution, the Center is also exempt from Federal income tax.

Contributions made to the Smithsonian Institution for the benefit of the National Cultural Center are deductible by the donors in computing their taxable income in the manner and to the extent provided by section 170 of the 1954 Code. Bequests, legacies, devises or transfers are deductible in

computing the value of the taxable estate of a decedent for Federal estate tax purposes as provided by sections 2055 and 2106 of the 1954 Code and gifts of property are deductible for Federal gift tax purposes under section 2522 of the 1954 Code.

Sincerely yours,

Acting Commissioner

The Honorable The Secretary of Health, Education and Welfare Washington 25, D.C.



U.S. TREASURY DEPARTMENT

INTERNAL REVENUE SERVICE WASHINGTON, D.C. 20224

IN REPLY REFER TO

T:R:I:MEP-3

John F. Kennedy Center for the Performing Arts 1701 Pennsylvania Avenue, N. W. Washington, D. C. 20566

MAR 2 1965

Attention: Mr. Ralph E. Becker

General Counsel

Gentlemen:

You ask for a ruling in your letter of January 29. 1965, that contributions made to you by individual donors are subject to the special limitation provision of section 170(b)(1)(A) of the Internal Revenue Code of 1954, as amended by section 209(a) of the Revenue Act of 1964. You enclosed a copy of the John F. Kennedy Center Act.

Public Law 85-874, 85th Congress, 72 Stat. 1698, approved September 2, 1958, established the National Cultural Center as a Bureau of the Smithsonian Institution, and was amended by Public Law 88-260, 78 Stat. 4, January 23, 1964, to provide for the construction of the John F. Kennedy Center for the Performing Arts on a site made available in the District of Columbia. The Act provides for the administration of the Center by a Board of Trustees. The Board is empowered to solicit and accept for the Smithsonian Institution, and to hold and administer gifts, bequests or devises of money, securities, or other property for the benefit of the Center.

The Act further provides that the Board shall submit to the Smithsonian Institution an annual report of its operations, including a detailed statement of all public and private moneys received and disbursed by it.

The cost of the project, is estimated at \$46 million. exclusive of land. The goal of \$15.5 million in contributions from the general public to match the 315.5 million appropriated by Congress has almost been reached by contributions from every State, from charitable foundations, corporations, and individuals, as well as from foreign governments. The Act also provides for borrowing authority of \$15.4 million from the United States Treasury.

This office previously held that contributions made to you are deductible by an individual donor, subject to the limitation that the aggregate of his deductible contributions may not exceed 20 percent of his adjusted gross income as provided in section 170(b)(1)(B) of the 1954 Code.

Under section 170(b)(1)(A) of the 1954 Code, as amended, individuals are allowed an additional deduction of not exceeding 10 percent of their adjusted gross income for contributions made to certain organizations described in section 170(b)(1)(A)(i), (ii), (iii), and (iv).

Section 209(a) of the Revenue Act of 1964 expanded the type of organizations to which the additional 10 percent deduction is applicable for contributions paid in taxable years beginning after December 31, 1963, to include the following:

"(v) a governmental unit referred to in subsection (c)(l), or

"(vi) an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public,".

It is our conclusion, based upon the evidence on file that you constitute an organization described in section 170(b)(1)(A) of the 1954 Code, as amended by section 209(a) of the Revenue Act of 1964.

Accordingly, it is held that the special limitation provided in section 170(b)(1)(A) of the 1954 Code, as amended, is applicable to contributions made to you by individual donors for the taxable years beginning after December 31, 1963.

The Service has discontinued publishing the Supplements to the Cumulative List of organizations described in section 170(c), Publication No. 78, in the Internal Revenue Bulletin. Instead, supplements are issued bimonthly as a separate pamphlet on a completely cumulative basis. Your changed name appears in Cumulative List Supplement No. 1964-6.

Very truly yours,

John WS fittletine
Director, Tax Rulings Division

N. Feldman 741+71

Department of the Treasury

Internal Revenue Service Washington, DC 20224

In reply refer to:

20

10-20-70

JOHN F KENNEDY CENTER FOR THE PERFORMING ARTS 726 JACKSON PLACE N W WASHINGTON . D C

Gentlemen:

Based on the information you recently submitted, we have classified you as an organization that is not a private foundation as defined in section 509(a) of the Internal Revenue Code.

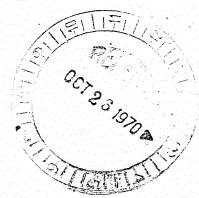
Your classification is based on the assumption that your operations will be as stated in your notification. Any changes in your purposes, character, or method of operation must be reported to your District Director so he may consider the effect on your status.

Sincerely yours,

A. Deeles w

Chief, Rulings Section Exempt Organizations Branch

FORM M-0714 (8-70) (CONTINUOUS)



THE WHITE HOUSE

WASHINGTON

January 27, 1986

Dear Ms. Lamb:

Thank you for your letter of January 16 to David B. Waller, requesting permission to include an excerpt from a letter from the President to your organization in a brochure you are preparing commemorating the 20th anniversary of the Friends of the Kennedy Center.

We have no objections to your proposed use of the excerpt. Please accept our congratulations and best wishes as the Friends complete two decades of service to the arts in America.

Sincerely,

signed

Richard A. Hauser Deputy Counsel to the President

Ms. Susan T. Lamb Friends of the Kennedy Center Washington, D.C. 20566

RAH:JGR:aea 1/27/86

cc: FFFielding
RAHauser
JGRoberts
DBWaller
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 27, 1986

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS

SUBJECT:

Request to Use Excerpt of

Presidential Letter In Brochure

The Friends of the Kennedy Center have requested permission to use an excerpt from a letter the President wrote them in a brochure commemorating the 20th anniversary of their organization. The excerpt notes the importance of volunteer support for the arts, and commends the Friends for their invaluable efforts.

I have no objection. The Kennedy Center and its associated entities have always been something of an exception to our usual rules concerning endorsement of particular non-profit organizations; the planned brochure is not a fundraising solicitation; and the excerpt encourages donation of "time and energy," not funds. A brief note of approval is attached for your signature.

cc: David B. Waller

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WHITE HOUSE

WASHINGTON.D.C.20566 202-254-8700

Friends of the Kennedy Center

January 16, 1986

579543 Cc

Mr. David B. Waller
Senior Associate Counsel
to the President
The White House
Washington, D.C. 20500

Dear Dave:

Enclosed is a copy of the President's letter to the Friends of the Kennedy Center volunteers. We would like to use the excerpt, which is marked, as a quotation in the upcoming publication of the Friends brochure.

As you know, 1986 marks the 20th anniversary of the Friends organization. This brochure will highlight the Friends history and role in supporting the national cultural center during the last two decades.

Thank you for your assistance.

Sincerely,

Susan T. Lamb Director of Programming

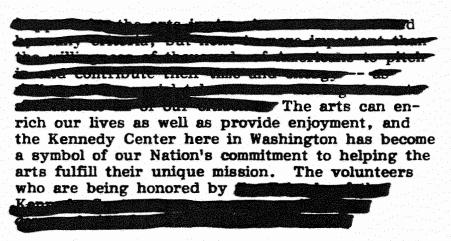
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THE WHITE HOUSE

WASHINGTON

June 25, 1985

I am pleased to send warm greetings to all those gathered as the Friends of the Kennedy Center honor the volunteers who have done so much to make the Kennedy Center a showcase for the arts in our Nation's Capital.



Nancy joins me in sending everyone present our best wishes for every future success and happiness.

Rosed Ryan