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| USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 11/15/2023 |
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA, | : | ADDENDUM TO |
| | : | CONSENT DECREE |
| Plaintiff, | : | |
| | : | |
| v. | : | 21 Civ. 5853 (AT) |
| JUJAMCYN THEATERS LLC, | : | |
| | : | |
| Defendant. | : | |

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WHEREAS, the United States of America (the “Government”) commenced this action to enforce provisions of Title III of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12181 *et seq.*, and the Department of Justice regulations implementing Title III of the ADA, 28 C.F.R. Pt. 36 (the “Regulations”), and the ADA Standards for Accessible Design, consisting of 28 C.F.R. Pt. 36, App. D (the “1991 Standards”); and Appendices B and D to 36 C.F.R. Pt. 1191 (2009), and the requirements contained in subpart D of 28 C.F.R. Pt. 36 (the “2010 Standards”), against Jujamcyn Theaters LLC (“Jujamcyn”) with respect to, *inter alia*, the August Wilson Theatre, opened in 1925 and located at 245 West 52nd Street (the “Theater”);

WHEREAS, the Theater is owned by Jujamcyn, which is a limited liability company organized under the laws of Delaware and headquartered in New York;

WHEREAS, Jujamcyn and the United States entered into a Consent Decree approved and entered by the Court on July 12, 2021, pursuant to which Jujamcyn agreed to make certain accessibility improvements to the Theater;

WHEREAS, by notice dated October 12, 2021, January 19, 2022, and February 17, 2022, Jujamcyn certified that it complied with the obligations of the Consent Decree with regard to the

Theater;

WHEREAS, Jujamcyn now proposes significant alterations to the Theater pursuant to paragraph 17 of the Consent Decree to permit a “theater in the round” production of “Cabaret” (the “Production”);

WHEREAS, the Production will reduce the total number of seating locations in the Theater, and

WHEREAS, the United States has reviewed the proposed alterations and has no objection thereto;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 12188(b)(1)(B) and 42 U.S.C. §§ 1331 and 1345.
2. The Consent Decree is hereby modified with respect solely to the Theater and solely with regard to the Production for the duration of its run; in other words, solely as to the August Wilson Theater for the planning, production, and closing (if any) of “Cabaret.” This Addendum does not alter the duties and responsibilities of the parties as to any other theater, nor does it alter or amend any provision of the Consent Decree except as specifically indicated herein.
3. The Consent Decree is hereby modified with respect to the Theater for the duration of the Production as follows:
 - A. Entrance to the Theater: Paragraph 5 of the Consent Decree is amended to the extent that Jujamcyn shall provide an accessible entrance route at the Theater as set forth in Exhibit 1.
 - B. Restrooms: Paragraph 6 of the Consent Decree is amended to the extent

that Jujamcyn shall maintain two wheelchair accessible unisex toilet rooms that meet the requirements of 2010 Standards §§ 213, 603-606, to the extent set forth in Exhibit 1, it being agreed that the existing wheelchair accessible unisex toilet room is not being altered and shall meet the requirements of 2010 Standards §§ 213, 603-606, as and to the extent set forth in Exhibit 2A of the Consent Decree.

C. Egress Route: Paragraph 9 of the Consent Decree is amended to the extent that Jujamcyn shall provide in the Theater a designated access route to the extent set forth in Exhibit 1.

D. Wheelchair and Companion Seating Locations: Paragraph 14 of the Consent Decree is amended to the extent that Jujamcyn shall provide eleven (11) wheelchair seating locations and the associated companion seating locations at the Theater to the extent set forth in Exhibit 1. It is agreed that each wheelchair seating location at a table shall be permitted to be sold only if both seats at such table are purchased, so long as seats at all other tables sold to the general public at the Standard-Admission price for table seats are also sold only in pairs.

E. Aisle Transfer Seating: Paragraph 16 of the Consent Decree is amended to the extent that Jujamcyn shall provide and maintain aisle seats that are equipped with folding armrests or, in the case of seats at tables, at Jujamcyn's option, no armrests ("designated aisle seats") to the extent set forth in Exhibit 1.

F. Ticket Pricing: Paragraph 18 of the Consent Decree is amended to the extent that the ticket pricing for wheelchair and companion seating locations in the Theater shall be as follows: (a) six of the wheelchair seating locations and one companion seat for each such wheelchair seating location shall be offered for sale to wheelchair users


and their companions at the lowest ticket price at which tickets are offered for sale for Standard-Admission Seats for the general public at the Theater; (b) the remaining five wheelchair seating locations and one companion seat for each such wheelchair seating location shall be offered for sale to wheelchair users and their companions at the price of the tickets for Standard-Admission Seats in proximity to the wheelchair seating locations; (c) all remaining wheelchair companion seating locations may be priced at the price of tickets for standard-admission, non-accessible seats in proximity to the applicable wheelchair seating location; and (d) all aisle transfer seating locations shall be offered for sale to people with disabilities at the price at which adjacent seating locations in the same row are offered for sale for that performance, or, in the event such adjacent seating locations are not, for that performance, being offered for sale to the general public, at the price such seating locations would otherwise be offered for sale for that performance to the general public.

4. Upon the conclusion of the Production, the Theater shall revert to the specifications set forth in the Consent Decree, including with respect to the seating plan, wheelchair accessible seating and aisle transfer seating locations.

Dated: New York, New York
November 9, 2023

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By:




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Dated: New York, New York
November 7, 2023

JUJAMCYN THEATERS LLC

By:



HAL GOLDBERG
Chief Operating Officer
Jujamcyn Theaters LLC
246 W 44th Street
New York, New York 10036
Tel. No.: (212) 840-8181

SO ORDERED:



HON. ANALISA TORRES
UNITED STATES DISTRICT JUDGE

Dated: November 15, 2023
New York, New York

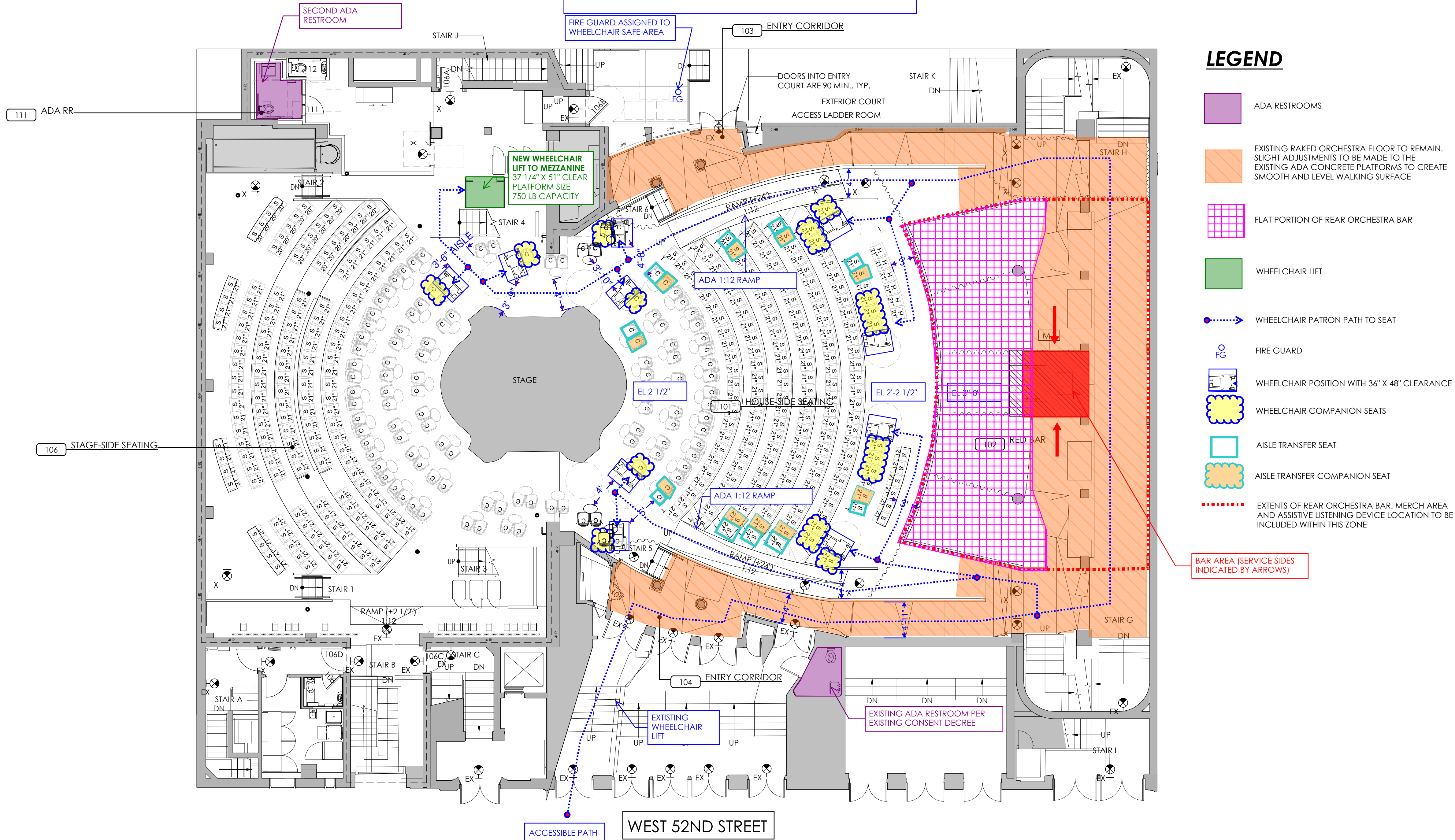
Exhibit 1

REFERENCE TO 2022BC

§28.2-1009.6 Areas of rescue assistance. Every required area of rescue assistance shall be accessible from the space it serves by one or more accessible means of egress components as listed in Section 28.2-1009.2.

§28.2-1009.6.2 Stairway or elevator access. Every required area of rescue assistance shall have direct access to a stairway complying with Sections 28.2-1009.3 and 28.2-1023, or an elevator complying with Section 28.2-1009.4.

§28.2-1009.6.3 Size. Each area of rescue assistance shall be sized to accommodate one wheelchair space of 30 inches by 48 inches (762 mm by 1220 mm) for each 200 occupants or portion thereof, based on the occupant load of the area of rescue assistance and areas served by the area of rescue assistance. Such wheelchair spaces shall not reduce the means of egress minimum width or required capacity. Access to any of the required wheelchair spaces in an area of rescue assistance shall not be obstructed by more than one adjoining wheelchair space. Every required area of rescue assistance shall be accessible from the space it serves by one or more accessible means of egress components as listed in Section 28.2-1009.2.



1 DOJ SEATING PLAN ORCHESTRA
scale: 1/8" = 1'-0"

TO THE BEST OF MY KNOWLEDGE AND
PROFESSIONAL JUDGEMENT THESE
DRAWINGS ARE IN COMPLIANCE WITH
THE NEW YORK CITY BUILDING CODE
AND ADA COMPLIANCE.

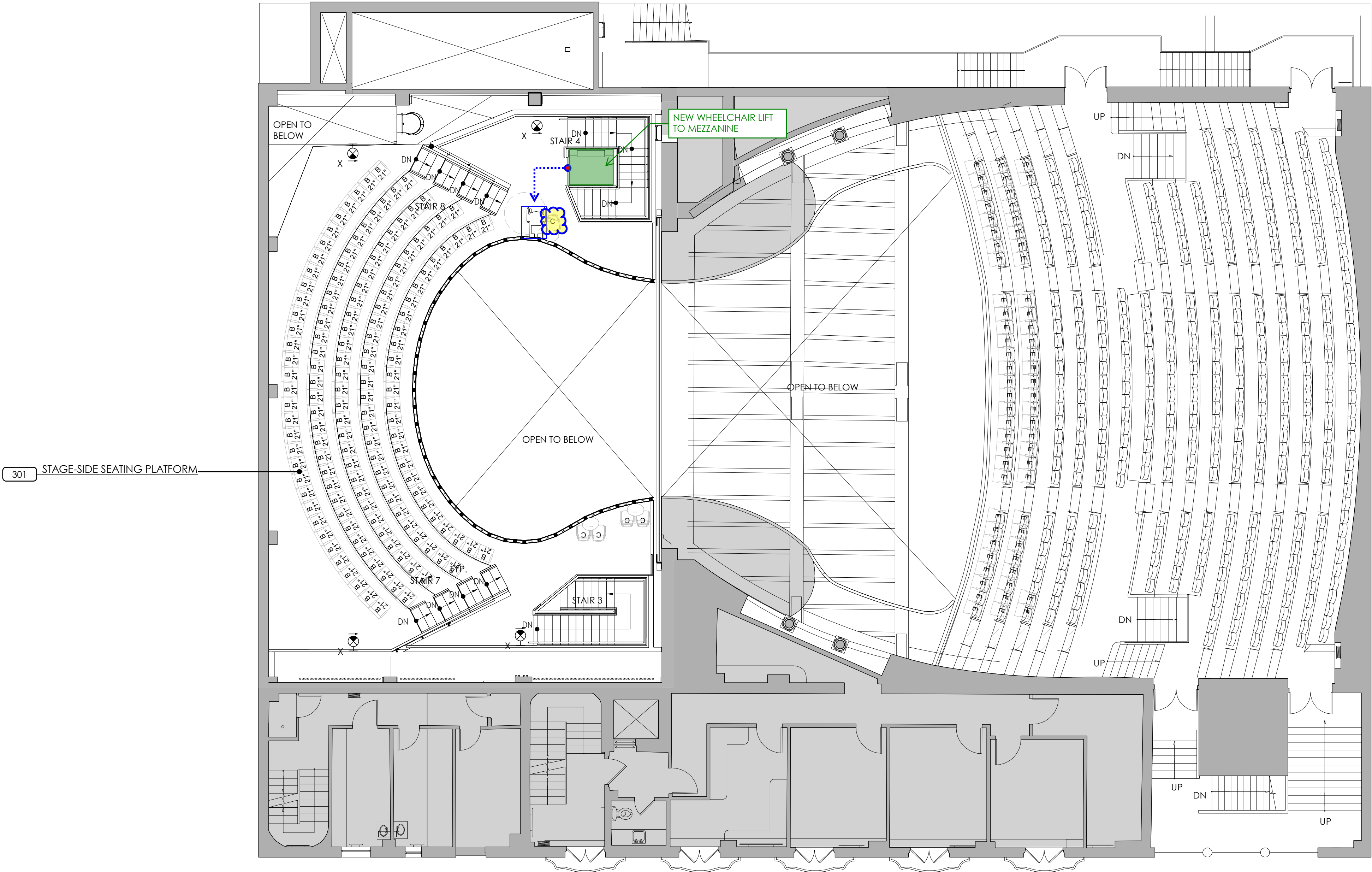
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NOTE: DO NOT SCALE OFF OF PLANS

1 DOJ SEATING PLAN SEATING PLATFORM
scale: 1/8" = 1'-0"



DANCE II

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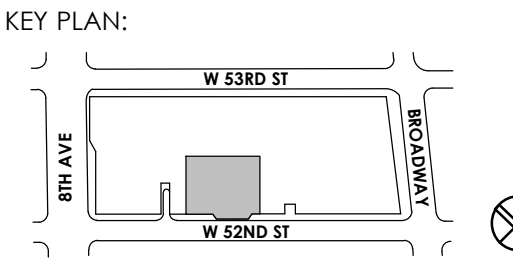
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| DESCRIPTION | NO | DATE |
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| | | |
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1ST FLOOR (ORCHESTRA
LEVEL) SEATING
PLATFORM

DOB NOW no M00914934-11
project no 23-002
scale 1/8" = 1'-0"
graphic scale 0 8'
drawing nDOJ-002.00
sheets in set 2 OF 35