

Village of La Grange



VILLAGE BOARD MEETING

MONDAY, NOVEMBER 10, 2008

7:30 p.m.

Village Hall Auditorium

53 S. La Grange Road

La Grange, IL 60525

Elizabeth M. Asperger
Village President

Robert N. Milne
Village Clerk

VILLAGE OF LA GRANGE
BOARD OF TRUSTEES REGULAR MEETING

Village Hall Auditorium
53 South La Grange Road
La Grange, IL 60525

AGENDA

Monday, November 10, 2008 – 7:30 p.m.

1. CALL TO ORDER AND ROLL CALL

*President Elizabeth Asperger
Trustee Mike Horvath
Trustee Mark Kuchler
Trustee Mark Langan
Trustee Tom Livingston
Trustee James Palermo
Trustee Barb Wolf*

2. PRESIDENT'S REPORT

This is an opportunity for the Village President to report on matters of interest or concern to the Village.

- A. Recognition – Auxiliary Police Officer Louis Berardi, 30 Years of Volunteer Service
- B. Oath of Office – Police Officers Matthew Gill and Scott Wolf

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

This is the opportunity for members of the audience to speak about matters that are included on this Agenda.

4. OMNIBUS AGENDA AND VOTE

Matters on the Omnibus Agenda will be considered by a single motion and vote because they already have been considered fully by the Board at a previous meeting or have been determined to be of a routine nature. Any member of the Board of Trustees may request that an item be moved from the Omnibus Agenda to Current Business for separate consideration.

- A. Award of Contract IDOT “Extraordinary Repairs”
- B. Consolidated Voucher 081110
- C. Minutes of the Village of La Grange Board of Trustees Regular Town Meeting, Monday, October 27, 2008

5. CURRENT BUSINESS

This agenda item includes consideration of matters being presented to the Board of Trustees for action.

- A. Preliminary Review of the Proposed 2008 Property Tax Levy
Request: *Referred to Trustee Kuchler*
- B. Intergovernmental Agreement & Ordinance – YMCA
Redevelopment Project / Land Exchange Between The Village of
La Grange and The Park District of La Grange: *Referred to
President Asperger*
- C. Agreement – Public-Private Partnership for The Renovation of The
La Grange Theater: *Referred to Trustee Livingston*

6. MANAGER'S REPORT

This is an opportunity for the Village Manager to report on behalf of the Village Staff about matters of interest to the Village.

7. PUBLIC COMMENTS REGARDING MATTERS NOT ON AGENDA

This is an opportunity for members of the audience to speak about Village related matters that are not listed on this Agenda.

8. EXECUTIVE SESSION

The Board of Trustees may decide, by a roll call vote, to convene in executive session if there are matters to discuss confidentially, in accordance with the Open Meetings Act.

9. TRUSTEE COMMENTS

The Board of Trustees may wish to comment on any matters.

10. ADJOURNMENT

The Village of La Grange is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions, regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at (708) 579-2315 promptly to allow the Village to make reasonable accommodations for those persons.

PRESIDENT'S REPORT

VILLAGE OF LA GRANGE
Administrative Offices

BOARD REPORT

TO: Village President, Village Clerk,
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager and
Michael A. Holub, Chief of Police

DATE: November 10, 2008

RE: **RECOGNITION – AUXILIARY POLICE OFFICER LOUIS BERARDI,
30 YEARS OF VOLUNTEER SERVICE**

Lou Berardi joined the La Grange Civil Defense Police Unit in 1979. The Civil Defense Police Unit ultimately became the La Grange Auxiliary Police Unit in 1981 and Lou Berardi was appointed the Director of the Unit, a position he held until 1988.

Lou Berardi's dedication to the Police Department and to the Village of La Grange was further demonstrated in 2000 when he secured an Ameritech grant of \$1,500 to support our D.A.R.E.[®] program.

Lou Berardi has remained a member of the Auxiliary Police Unit for the last 30 years and has retained his interest in law enforcement. He continues to average over 200 hours per year of voluntary service to the community. In addition to his responsibilities as a Sergeant, Lou Berardi is a State certified firearms instructor and is in charge of the Auxiliary Police Unit's firearms training program. He also serves as the Unit Director in the absence of Director Jim Liotta.

For these reasons we recommend that the Village Board recognize Lou Berardi for his outstanding volunteer service to the citizens of La Grange. At this time, we invite Lou to step to the dias so that the Village Board may present him with an expression of its appreciation for his commitment to the Village of La Grange.

2-A

VILLAGE OF LA GRANGE
Police Department

BOARD REPORT

To: Village President, Village Clerk,
Board of Trustees & Village Attorney

From: Robert J. Pilipiszyn, Village Manager
Michael A. Holub, Chief of Police

Date: November 10, 2008

Re: **OATH OF OFFICE – POLICE OFFICERS MATTHEW GILL AND
SCOTT WOLF**

To fill vacancies created by a recent retirement and resignation, the La Grange Board of Fire and Police Commissioners have appointed Matthew Gill and Scott Wolf to the position of Police Officer effective September 22, 2008. Both started the basic recruit academy conducted by the Cook County Sheriff's Police Department at Triton College on October 6, 2008. Their training will last nearly four months, after which they will return to the Police Department to begin their Field Training with a veteran police officer. Known as the FTO Program, that in-depth localized training will last approximately three months.

Matthew Gill graduated from the University of Illinois – Chicago with a B.S. in Criminal Justice. He received an Honorable Discharge from the U.S. Marine Corp with the rank of Corporal and also served one tour in the Iraqi Theater. Matt is currently a Sergeant with the USMC-Reserve. Matt is married and resides in Chicago.

Scott Wolf graduated from Western Illinois University with a B.S. in Interdisciplinary Studies. Prior to his appointment he was employed by the Chicago Ridge Police Department as a Part-Time Police Officer. Scott is single and resides in Orland Park.

We are pleased to present Matthew Gill and Scott Wolf to the Village Board. At this time, we invite Matthew Gill to step forward so that Village Clerk Robert Milne can administer the oath of office. Thereafter, we invite Scott Wolf to step forward to take the same oath.

2-B

OMNIBUS VOTE

VILLAGE OF LA GRANGE
Department of Public Works

BOARD REPORT

TO: Village President, Village Clerk, Board of Trustees, and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manger
Ryan Gillingham, Director of Public Works

DATE: November 10, 2008

RE: **AWARD OF CONTRACT**
IDOT "EXTRAORDINARY REPAIRS"

As previously outlined in the Board Report dated October 27, 2008, the Village applied for and received \$100,000 from the Illinois Department of Transportation (IDOT) to perform various street repairs as a result of the harsh weather conditions experienced last winter. The Village has been approving and completing the projects contained within the program on an individual basis. The following table identifies the extraordinary maintenance items that have been approved to date by the Village in the amount of \$61,029.50.

	Approved Extraordinary Maintenance Items	Amount
1	Resurface westbound lane of Burlington Avenue between Ogden Avenue and La Grange Road (this segment of Burlington Avenue is an unmarked State route and the work was recently performed as part of the Burlington Avenue water main replacement project)	\$26,206.00
2	Curb and gutter repairs on northbound La Grange Road, north of Ogden Avenue	\$1,821.00
3	Curb and gutter repairs on eastbound 47th Street at La Grange Road	\$9,364.50
4	Curb and gutter repairs near / at Ogden Avenue underpass	\$255.00
5	Resurface east bound lanes of 47th Street between Madison and La Grange Road	\$17,009.00
6	Replace detector loops within eastbound lanes of 47th Street between Madison and La Grange Road	\$5,495.00
7	Replace striping within eastbound lanes of 47th Street between Madison and La Grange Road	\$879.00
	Total	\$61,029.50

4-A

There are three additional projects that we are requesting for approval. The first project is to perform intermittent patching on Ogden Avenue between Brainard Avenue and Waiola Avenue. We received four proposals for this project with the following results:

Contractor / Location	Quote
Central Blacktop, La Grange, IL	\$9,870.00
Rose Paving, Bridgeview, IL	\$12,656.00
J. Redding Asphalt, Lyons, IL	\$11,325.00
K-Five Construction, Lemont, IL	\$18,000.00

The low quote for this project was submitted by Central Blacktop in the amount \$9,870.00. We are familiar with Central Blacktop as they have provided similar roadway related services to the Village in the past to our satisfaction.

The second project consists of intermittent patching on 47th Street between Leitch Avenue and Kensington Avenue. We received three proposals for this project with the following results:

Contractor / Location	Quote
Central Blacktop, La Grange, IL	\$6,711.60
J. Redding Asphalt, Lyons, IL	\$7,200.00
K-Five Construction, Lemont, IL	\$12,040.00

The low quote for this project was submitted by Central Blacktop in the amount of \$6,711.60. Again we are familiar with Central Blacktop and have been satisfied with the work that they have performed in the past.

The third project consists of the repair of two catch basin structures on 47th Street between Sixth and Eighth Avenue. These structures require the reconstruction of the catch basin structure with new frames and lids. We received three proposals for this project with the following results:

Contractor / Location	Quote
Rose Paving, Bridgeview, IL	\$5,834.00
Suburban General, La Grange Park, IL	\$17,985.00
Cerniglia, Melrose Park, IL	\$24,230.00

The low quote for this project was submitted by Rose Paving in the amount of \$5,834.00. Upon further investigation of the firm’s qualifications, we discovered that they are not prequalified with IDOT to perform the work. Additionally the proposal provided by Rose Paving did not match the scope of work requested, hence the large difference between the first and second bid amounts. Therefore we recommend selecting the second low bidder for the project, Suburban General, based on their bid in the amount of \$17,985.00. Suburban General has performed satisfactorily for the Village on past projects and has the capacity to complete the work.

4-A.1

We recommend that the Village Board waive the formal bidding process and authorize staff to enter into contracts with the following firms for the remaining extraordinary maintenance items.

	Proposed Extraordinary Maintenance Projects	Company	Contract Value
1	Intermittent asphalt patching on Ogden Avenue between Brainard Avenue and Waiola Avenue	Central Blacktop, La Grange, IL	\$9,870.00
2	Intermittent asphalt patching on 47th Street between Leitch Avenue and Kensington Avenue	Central Blacktop, La Grange, IL	\$6,711.60
3	Repair two catch basin structures on 47th Street between Sixth Avenue and Eighth Avenue	Suburban General, La Grange Park, IL	\$17,985.00
		Total	\$34,566.60

The approved and proposed maintenance activities described in this report were part of our application to IDOT, which was approved for State funding. The current value of the approved and proposed extraordinary maintenance projects is \$95,596.10. If additional patching needs are identified prior to the start of work, we propose to add these to the contract with Central Blacktop as a change order while staying below the IDOT funding limit of \$99,995.60. An invoice will be sent to IDOT for reimbursement once the above projects are complete. All of the above projects are proposed to be completed this Fall.

4-A.2

VILLAGE OF LA GRANGE

Disbursement Approval by Fund

November 10, 2008

Consolidated Voucher 081110

<u>Fund No.</u>	<u>Fund Name</u>	<u>11/10/08 Voucher</u>	<u>10/31/08 Payroll</u>	<u>Total</u>
01	General	158,622.38	235,546.55	394,168.93
21	Motor Fuel Tax			0.00
22	Foreign Fire Insurance Tax	189.41		189.41
23	TIF			0.00
24	ETSB	2,112.74		2,112.74
40	Capital Projects	65,314.83		65,314.83
50	Water	588,836.37	32,695.73	621,532.10
51	Parking	7,386.47	20,786.19	28,172.66
60	Equipment Replacement	31,696.00		31,696.00
70	Police Pension			0.00
75	Firefighters' Pension			0.00
80	Sewer	29,047.01	8,146.40	37,193.41
90	Debt Service	310,500.00		310,500.00
91	SSA 4A Debt Service	0.00		0.00
93	SAA 269	0.00		0.00
94	SAA 270	0.00		0.00
		<u>1,193,705.21</u>	<u>297,174.87</u>	<u>1,490,880.08</u>

We the undersigned Manager and Clerk of the Village of La Grange hereby certify that, to the best of our knowledge and belief, the foregoing items are true and proper charges against the Village and hereby approve their payment.

Village Manager

Village Clerk

President

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

4-B

MINUTES

VILLAGE OF LA GRANGE BOARD OF TRUSTEES REGULAR MEETING

Town Meeting – Ogden Avenue School
(Gymnasium)
501 Ogden Avenue
La Grange, IL 60525

Monday, October 27, 2008 - 7:30 p.m.

1. CALL TO ORDER AND ROLL CALL

The Board of Trustees of the Village of La Grange regular meeting was called to order at 7:30 p.m. by President Asperger. The following were present:

PRESENT: Trustees Horvath, Kuchler, Langan, Livingston, Palermo, and Wolf

ABSENT: None

OTHERS: Village Manager Robert Pilipiszyn
Assistant Village Manager Andrianna Peterson
Village Attorney Paula Kirlin
Community Development Director Patrick Benjamin
Finance Director Lou Cipparrone
Public Works Director Ryan Gillingham
Assistant Public Works Director Mike Bojovic
Fire Chief David Fleege
Police Chief Mike Holub

2. PRESIDENT'S REPORT

President Asperger welcomed all to the second in a series of Town Meetings being held in various areas of the Village. President Asperger began by introducing Village officials and expressed her privilege in working with all of her constituents. President Asperger proceeded to explain that there would be a brief business meeting prior to opening the floor to the audience.

President Asperger stated that the Halloween Walk sponsored by the La Grange Business Association was well attended.

President Asperger noted that on Thursday, November 13 there would be a fundraiser aimed at alleviating hunger. Potters at Terra Incognito will create a variety of ceramic bowls which may be purchased for a minimum donation. Bowls are then taken to various

4-C

participating business locations throughout the Village to be filled. Proceeds will benefit food pantries in the Village.

The Village has begun to display its "Festival of Lights" in preparation for the annual Holiday Walk being held on Saturday, December 6.

The Robert E. Coulter American Legion Post 1941 will host a Veterans' Day Salute on Tuesday, November 11.

President Asperger recognized Patrol Officer Steve Kneifel who is preparing for his deployment to Afghanistan until 2010. Officer Kneifel serves as the Village's Elderly Services Officer and was recently recognized by the Illinois Attorney General for his focus on prevention of crimes on older adults.

3. PUBLIC COMMENTS REGARDING AGENDA ITEMS

None.

4. OMNIBUS AGENDA AND VOTE

- A. Ordinance (#O-08-27) – Creating an Additional Class C-1 Liquor License, Francesca's La Grange, LLC, 75 S. La Grange Road
- B. Resolution (#R-08-09) – Ratification of Collective Bargaining Agreement Between The Village of La Grange and The Illinois Fraternal Order of Police Labor Council (Police Officers)
- C. Agreement – IDOT Joint Agreement, Phase III Engineering and MFT Resolution for Stage One of the Bluff Avenue Project (Local Agency Agreement for Federal Participation of \$697,000; Engineering Services Heuer and Associates \$130,000; and IDOT required Motor Fuel Tax Resolution \$300,000)
- D. Award of Contract – Sewer Repair Project – Intersection of Spring Avenue and Maple Avenue (Cerniglia Company, Melrose Park, IL \$21.977)
- E. Award of Contract – IDOT "Extraordinary Repairs" (Central Blacktop \$17,009; IDOT funds balance \$38,971)
- F. Consolidated Voucher 081027 (\$624,600.86)
- G. Minutes of the Village of La Grange Board of Trustees Regular Meeting, Monday, October 13, 2008

It was moved by Trustee Langan to approve items A, B, C, D, E, F, and G of the Omnibus Agenda, seconded by Trustee Horvath.

4-C.1

Trustee Palermo inquired about wage increase methodologies, budget impact and pension fund impact regarding the collective bargaining agreement with the Illinois Fraternal Order of Police Labor Council and Village Manager Pilipiszyn and Finance Director Cipparrone responded.

Trustee Horvath noted his approval of the future opening of Francesca's.

Approved by roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo, Wolf
and President Asperger
Nays: None
Absent: None

5. CURRENT BUSINESS

- A. La Grange Business Association / 2008 Holiday Walk – Request for Village Sponsorship: Referred to Trustee Livingston

Trustee Livingston explained that the December 6, 2008 Holiday Walk has always been a positive reflection of the Village of La Grange and brings shoppers into the community. The La Grange Business Association is requesting that the Village co-sponsor the event in an amount not to exceed \$12,000. Trustee Livingston added that the Village's position of sponsorship is marketing the event, which includes newspaper advertisements, posters and the production and mailing of the booklet which lists the activities for the evening.

Trustee Livingston explained the activities and other enhancements to be included. Upon culmination of the event, the La Grange Business Association would provide a complete financial statement for the event.

It was moved by Trustee Livingston to support the Holiday Walk's cost of advertising and marketing for 2008 in an amount not to exceed \$12,000, with the conditions as outlined in the Village's sponsorship policy, seconded by Trustee Langan. Approved by roll call vote.

Ayes: Trustees Horvath, Kuchler, Langan, Livingston, Palermo and Wolf
Nays: None
Absent: None

6. MANAGER'S REPORT

Village Manager Robert Pilipiszyn made known that the Village recently hosted a well-attended community meeting with representatives from various agencies to advise residents of programs available for financial assistance relevant to utility

4-C.2

bills and home repairs. Complete information will be posted on the Village website.

Mr. Pilipiszyn advised residents that the Village will be utilizing a new water billing format beginning November 1. The new system will allow the Village to access new billing technologies in the future.

The final brush collection will be the week of November 3.

7. EXECUTIVE SESSION

8. TOWN MEETING

Prior to opening the floor to the audience, President Asperger introduced members of staff and gave a brief description of the responsibilities assigned to each area.

President Asperger noted the Board's determination for a number of goals to preserve and enhance the community, along with accomplishments throughout the Village. Among them were:

- the approval of a mixed use, Planned Unit Development at the intersection of La Grange Road and Ogden Avenue (the former YMCA site)
- working with the La Grange Theatre for a public/private partnership to financially aid with the renovation of the theatre
- the La Grange Pointe project – residential and retail (the former IHOP site)
- continued improvements to the campus of La Grange Memorial Hospital
- conducted Economic Development Workshop to direct staff to pursue post-TIF strategies for on-going business development such as the façade loan program
- zoning code improvements; maximum lot coverage standards
- construction site management
- Bluff Avenue street and water main reconstruction project
- renovation of the Stone Avenue train station
- conducted the first Spring Clean Up day
- launched a new automatic telephone emergency notification system (CodeRed) whereby residents may register their phone numbers to receive emergency notices
- in the process of re-tooling the Village's website
- receipt of a grant from the West Central Cable Agency to replace the sound system along with recording and playback equipment
- restructuring the Department of Public Works to better facilitate workload for capital projects

At 8:10 p.m. President Asperger opened the floor to audience questions, comments or concerns.

Harlan Hirt, 421 S. Spring presented the Board with his prepared written statement relating to the land exchange between the Village and the Park District. President Asperger thanked Mr. Hirt for sharing his thoughts.

Kevin Shields, 45 N. Drexel requested an explanation why TIF funds were being reallocated from road improvements at Ogden Avenue and La Grange Road to the theater renovation project. President Asperger noted that it is anticipated that the developer for that area will be contributing to road improvements for that section and that the impact on the TIF budget was neutral.

Barb Rocco, 419 Hillgrove inquired why TIF funds were not utilized for improvements at Park Jr. High. President Asperger noted that Park Jr. High was not in the TIF District, however TIF funds were contributed to Cossitt School.

President Asperger commented on the recent meeting of the TIF Joint Review Board at which time a joint statement from the school districts was read by District 204 Superintendent Dennis Kelly. Dr. Kelly complimented the Village on its communication, vision and selection of TIF projects.

There being no further public comments, President Asperger requested a motion to adjourn.

9. TRUSTEE COMMENTS

10. ADJOURNMENT

At 8:30 p.m. it was moved by Trustee Langan to adjourn, seconded by Trustee Livingston. Approved by unanimous voice vote.

ATTEST:

Elizabeth M. Asperger, Village President

Robert N. Milne, Village Clerk

Approved Date

4-C.4

CURRENT BUSINESS

VILLAGE OF LA GRANGE
Finance Department

BOARD REPORT

TO: Village President and Board of Trustees, Village Clerk and
Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager
Lou Cipparrone, Finance Director

DATE: November 10, 2008

RE: **PRELIMINARY REVIEW OF THE PROPOSED 2008 PROPERTY
TAX LEVY REQUEST**

The **Truth in Taxation Law** requires a preliminary review of the proposed property tax levy by the corporate authorities at least 20 days prior to the adoption of the tax levy to determine if the aggregate levy is more than 5 percent greater than the preceding year's tax levy extension, exclusive of debt service. If the proposed levy is estimated to exceed the preceding year's levy by more than 5 percent, the Village must hold a public hearing prior to the adoption of the proposed property tax levy. The proposed Truth in Taxation levy request, excluding debt service, shows a total increase of 5.47 percent over the prior year's extension. Therefore, the Village of La Grange must hold a public hearing prior to the adoption of the 2008 property tax levy.

The proposed Village and Library's property tax levy increase of 5.47 percent over the prior year's extension, exclusive of debt service is also subject to the **Property Tax Limitation Act**, (property tax caps) which limits the increase in property tax extensions, exclusive of debt service and new property growth, to five percent, or the percent of increase in the national Consumer Price Index (CPI), whichever is less. The consumer price index rate for the 2008 levy determined as of December 2007 was 4.1 percent. The percentage increase in the tax levy over the 4.1 percent CPI represents new growth from estimated construction of \$7.5 million dollars during the next fiscal year. If such new growth does not occur, the property tax levy will automatically be lowered by Cook County. A detailed analysis of the property tax levy is presented later in this report.

Since the adoption of the Property Tax Limitation Act in 1994, the Village has levied the maximum amount allowable under the tax cap in order to generate sufficient revenues to meet increasing operating costs. With tax levies limited to the lesser of 5% or the CPI, excluding new growth; and personnel, pension and health insurance costs increasing in excess of these amounts the Village must continue with conservative fiscal management, economic development and identifying alternate revenue sources in order to maintain it's strong financial condition.

5-A

DETAILED PROPERTY TAX LEVY ANALYSIS

The Village Limiting Rate

The key feature resulting from the property tax limitation legislation is the calculation of the limiting rate. The aggregate rate extended for those funds subject to the Limitation Law cannot exceed the limiting rate. The general formula for the limiting rate for the 2008 levy year is:

2008 Limiting Rate	
2007 aggregate extension x 1.041 x rate increase factor (excluding debt service)	(voter approved)
(2008 est. EAV – 2008 est. new property) divided by 100	

As shown above, the limiting rate formula allows for growth in aggregate extensions by the amount of the limit, **plus** amounts for voter approved rate increases and new property. When calculating the limiting rate, the Village must also make its best estimate concerning the 2008 EAV and 2008 new property, as these figures will not be known until the month of October, 2009 following the December, 2008 tax levy.

New growth is generally defined as improvements or additions to a property that increase the assessed value of that real property during the levy year. It does not include maintenance, remodeling or triennial reassessments. The Village is estimating new growth of \$7,500,000 based upon increased residential and commercial construction Village wide. Cook County reported new growth in the Village during 2007 of \$7,194,191; \$9,787,789 in 2006; \$12,971,996 in 2005; \$4,162,575 in 2004 and \$3,135,222 in 2003. Detailed information regarding new growth in 2007 is not available from Cook County at this time. This new growth does not include any new construction within the TIF District. The new growth within the TIF District resulting from redevelopment projects is accounted for separately by the County. In order to capture new growth, taxing districts must take advantage of such growth in the year it becomes available. Otherwise, it will become part of the succeeding years' base EAV and not subject to an increased levy.

In addition to new growth, the County includes a 3% loss and cost factor to the Village levy. This ensures the Village will collect sufficient property taxes to fund operations and make bond payments. The loss and cost amount is added to levies to offset any unpaid property taxes due to delinquencies and foreclosures. By including a loss and cost factor, the Village ensures any new growth not accounted for in the Village's estimate will be captured as part of the tax levy.

5-A.1

The Village's limiting rate for the 2008 tax levy is calculated as follows:

(2007 extension, excluding debt service)					
6,789,651	x	1.041 (CPI)	=	7,068,027	= 1.1709
(611,141,000 - 7,500,000) divided by 100				6,036,410	
(2008 est. EAV - 2008 est. new growth)					

General Fund Levy

The cumulative increase in the General Fund levy is \$150,656 or 3.71 percent. The General Fund levy, in total, is the amount available under tax cap law, after funding the Village's pension levies (IMRF, Social Security, Police and Fire Pension Funds) which are discussed in detail later in this report. The General Fund levies are utilized to support Village operating expenditures including: Police, Fire, Public Works, Community Development, Finance and Administration. These funds also support major capital improvement projects including street reconstruction in accordance with the Board's direction. The Forestry Tax, Police and Fire Protection, and Street and Bridge levies are calculated at a percentage of their maximum rate based on prior year EAV. The Ambulance Service levy is an estimate of the cost to provide this service based upon a percentage of the Fire Department's budget.

The IMRF and Social Security levies are based on actual payroll figures. The IMRF levy includes the current 2008 contribution rate of 8.85 percent increasing to 9.47 percent in 2009, which reflects a total IMRF rate increase of 7.1 percent. This rate increase reflects negative investment returns incurred by IMRF resulting from the downturn in the economy. IMRF recently issued a statement that as of September 30, 2008 their percent funded status was estimated at 79%, down from almost 100% at December, 2007, as a result of investment losses. The IMRF levy also increased due to the reclassification of the code enforcement officer from part-time to full-time and the replacement of contractual building inspection services with a full-time building inspector position, with both new positions being IMRF eligible.

The corporate levy represents the balance available under the tax cap.

Police and Fire Pension Fund Levies

Police and Fire Pension Fund levies are based on independent actuarial valuations of each fund. The Village's actuary, Tim Sharpe, performed actuarial updates for the year ending April 30, 2008 to calculate the Village's contribution (tax levy) to the Police and Fire Pension Funds. Actuarial updates reflect actual interest income with actuarial assumptions utilized for salary increases (5%) and retirements. The results of the actuarial updates are summarized below.

Police Pension Fund: investment return of .81%; decreased assets of \$339,000; required Village contribution (tax levy) - \$564,934, increase of \$76,000 (15.6%); and percent funded status decrease by 5.0% to 70.6%.

5-A.2

Fire Pension Fund: investment return of .74%; decreased assets of \$225,000; required Village contribution (tax levy) - \$593,567, increase of \$50,000 (9.3%) and percent funded status decrease by 3.6% to 56.5%.

Incurred losses in the pension funds have been unprecedented in their rapidity, but not without historic antecedent. It took several years for the equities market to recover from the significant decline in the early 2000's resulting from the collapse of technology stocks. Historically, significant losses in equity markets are followed by positive returns. The pension funds remain positioned to participate in the anticipated recovery of the domestic and international markets.

Moreover, even though the pension funds experienced negative returns from variable annuities over the past year, these types of investments are long term in nature and historically average returns of between 8%-10%. History demonstrates that the value of a well-diversified portfolio, comprised of fixed and variable investment products, will outperform other financial assets such as government securities, bonds and cash over long periods of time.

Although the unfunded liability of the Police and Fire Pension Funds of approximately 13 million appears sizeable, it is important to note we are paying the interest associated with the unfunded liability directly to ourselves in the form of our pension funds. Neither the Village nor the pension funds are incurring any additional interest costs associated with funding this liability. The payment to the pension funds will occur either now or at sometime in the future. The State is providing municipalities the opportunity to fund these liabilities over a specific period of time so as not to place a greater hardship on municipalities being able to meet current operating expenditures. Funding these pension liabilities over time also allows the equity markets to earn average, historical returns of 8-10 percent which provides additional funding from interest income rather than from the property tax levies.

If the Village elected to provide additional funding to the police and fire pension plans, on an annual basis, by levying an amount in excess of the required actuarial contribution, the remaining property tax levy available under the current tax cap restrictions would be further reduced, impacting the Village's ability to continue to fund required personnel, high quality services and capital improvements.

Furthermore, even significant one-time contributions to the pension funds do not have a material impact on the funds. For example: a \$500,000 contribution from General Fund reserves to the Fire Pension Fund increases the percent funded status by approximately 3 percent and decreases the Village contribution (tax levy) by \$25,000. The decreased contribution is directly offset by decreased investment income in the General Fund of approximately \$20,000 annually. A \$500,000 contribution also reduces General Fund reserve funds by approximately 5 percent. In addition, contributions to a pension fund are irrevocable. Therefore, once a contribution is made to a pension fund if the Village should experience financial difficulties, the contribution could not be returned to the General Fund.

5-A.3

With our aggressive capital program, a State forecast which anticipates flat or negative economic growth and operating expenditures increasing at a rate in excess of property tax cap limitations, it is advisable to retain an adequate fund balance for contingencies and emergencies. In addition by maintaining adequate fund balance reserves the Village is in position to address previously identified, but unbudgeted projects of consequence.

In conclusion, the financial position of the Police and Fire Pension Funds remain comparable to the average percent funded status for municipalities, statewide of approximately 55 percent. As long as the Village remains committed to annually fund the minimum required annual contributions (tax levies) as determined by the actuarial valuations, both pension funds will reach 100 percent funding within the required statutory timeframe (2033). The comparison of our Police and Fire Pension Funds to the average percent funded status for municipalities is important for two reasons 1) to note our pension funds are performing adequately even during a difficult economic time and 2) this is not an isolated, local issue. The fact that all pension funds are attempting to address the pension funding issue may result in the State taking action in the form of extending the required full funding status date beyond the current deadline of 2033, removing pension levies from underneath the tax cap restrictions or a moratorium on pension benefits.

Debt Service Levies (Bond and Interest)

The 2007 levy provided for the final debt service payment relating to the 1988 G.O. bond issue which funded the construction of the current Police and Fire facilities. As such, a Village debt service levy for this bond issue is no longer required. Therefore, the Village's total 2008 tax levy will decrease by \$337,050 resulting in an overall tax levy decrease of 1.1 percent over the previous year's levy. As mentioned previously, debt service requirements are specifically omitted from the property tax cap limitation calculation for Truth in Taxation purposes.

The Library's debt service levy which is also excluded from the Truth in Taxation calculation decreases by \$35,341. This reflects the change in the subsequent year's debt amortization schedule for the 2004 G.O. bond issue for construction of the new library building. Debt service levies fluctuate annually depending on the debt amortization schedule.

Library Tax Levy

The La Grange Public Library is classified as a "municipal library" rather than as a separate public library district. As a municipal library, the Library does not have its own authority to levy property taxes. Therefore, the Library must levy taxes as part of the Village's annual property tax levy. The Library's 2008 tax levy request also represents an increase of 5.47 percent over the 2007 property tax levy extension. This amount reflects the allowable increase under the Property Tax Limitation Act and is equal to the amount of the increase of the Village tax levy request. Representatives from the La Grange Library will be in attendance at the November 10, 2008 board meeting to answer any questions regarding the tax levy request for the Library.

5-A-4

Special Service Area Tax Levy

In addition to the annual property tax levy, the Village files a Special Service Area levy with Cook County to fund on-going maintenance of the Central Business District. The Special Service Area tax levy is not subject to the Truth in Taxation requirements. The Special Service Area boundaries substantially follow that of the TIF District, with the exclusion of any single-family and multi-family properties. By ordinance, the Special Service Area levy is to be adjusted annually by the Consumer Price Index utilized as part of the Property Tax Limitation Act. Therefore, the 2008 Special Service Area levy of \$56,985 reflects an increase of 4.1 percent over last years levy of \$54,741.

Exhibits 1, 2, and 3

Exhibit 1 shows the Village's Truth in Taxation calculation. The proposed 2008 property tax levy request of \$7,155,844 represents an increase of \$370,924 or 5.47 percent from the 2007 tax levy of \$6,784,920.

Exhibit 2 presents historical data about the Village's assessed valuation, EAV and new growth.

Exhibit 3 is a comparison of the Village and Library 2007 and 2008 property tax rates on residential property. Assuming the tax levy is adopted as presented coupled with no Village debt service levy, the proposed increase of 5.47% on a home with an assessed property value of 250,000 (which is an estimated market value of approximately \$400,000), results in a decrease of \$24.91 from the Village levy and an increase of \$3.81 from the Library levy.

It should be noted that at this time, the Village Board is only announcing the 2008 preliminary tax levy. The ordinance adopting the 2008 tax levy will be presented at the December 8, 2008 Village Board meeting, which will be preceded by a public hearing at 7:30 p.m. in order to receive public comment and answer any questions regarding the 2008 tax levy.

Recommendation

We recommend that the Village Board approve the attached resolution announcing an estimated 2008 tax levy of \$7,155,844, exclusive of debt service, which is a 5.47 percent increase from the 2007 tax levy.

5-A-5

VILLAGE OF LA GRANGE

RESOLUTION _____

RESOLUTION PUBLISHING
PROPOSED REAL ESTATE TAX LEVY
FOR FISCAL YEAR 2008-09

WHEREAS, the VILLAGE OF LA GRANGE is required by law to determine the amounts of money estimated to be necessary to be raised by taxation for the upcoming fiscal year upon the taxable property in the Village; and

WHEREAS, the Village is required under State Statute 35 ILCS 200/18-55 to make such a determination at least 20 days prior to the date of a required public hearing,

THEREFORE, IT IS HEREBY RESOLVED by the President and Board of Trustees of the VILLAGE OF LA GRANGE, that the estimated amount of said levy is hereby determined to be the sum total amount of \$ 7,155,844.

Resolved in open meeting this 10th day of November, 2008.

AYES: _____

NAYS: _____

Approved this 10th day of November, 2008.

Village President _____
Elizabeth M. Asperger

Attest: Village Clerk _____
Robert N. Milne

5-A-6

VILLAGE OF LAGRANGE

EXHIBIT 1

LIMITING RATE AND
TRUTH IN TAXATION CALCULATIONS

(Proposed 2008 Tax Levy for the 2009-10 budget year with 2007 Extended Tax Levy.)

2008 LEVY PROJECTION

LIMITING RATE CALCULATION:

(2007 extension, excluding debt service)	(CPI increase)	=	7,068,027 =	1.1709
6,789,651 X	1.041		6,036,410	
(611,141,000 -	7,500,000)/100			
(2008 est. EAV)	(2008 est. new growth)			

TRUTH IN TAXATION CALCULATION:

	EXTENDED 2007 LEVY FOR FY 08-09	EXT. 2007 LEVY RATES	PROPOSED 2008 LEVY FOR FY 09-10	DOLLAR CHANGE	% CHANGE	EST. 2008 LEVY RATES	MAXIMUM LEGAL RATES*
GENERAL FUND LEVIES							
CORPORATE FUND	511,819	0.0850	573,680	61,861	12.09%	0.0939	0.4375
FORESTRY TAX	153,545	0.0255	156,557	3,012	1.96%	0.0256	0.0500
CROSSING GUARDS	0	0.0000	0	0	0.00%	0.0000	0.0200
POLICE PROTECTION	1,230,174	0.2043	1,252,453	22,279	1.81%	0.2049	0.4000
FIRE PROTECTION	1,230,174	0.2043	1,252,453	22,279	1.81%	0.2049	0.4000
AUDITING	0	0.0000	0	0	0.00%	0.0000	0.0050
STREET & BRIDGE	266,146	0.0442	270,963	4,817	1.81%	0.0443	0.0600
AMBULANCE SERVICE	299,866	0.0498	300,000	134	0.04%	0.0491	0.2500
IMRF	181,846	0.0302	204,879	23,033	12.67%	0.0335	N/A
SOCIAL SECURITY	<u>186,061</u>	<u>0.0309</u>	<u>199,301</u>	<u>13,240</u>	<u>7.12%</u>	0.0326	N/A
SUBTOTAL GEN. FUND	4,059,631	0.6742	4,210,287	150,656	3.71%	0.6889	1.6225
PENSION LEVIES							
POLICE PENSION FUND	488,336	0.0811	564,934	76,598	15.69%	0.0924	N/A
FIRE PENSION FUND	<u>542,529</u>	<u>0.0901</u>	<u>593,567</u>	<u>51,038</u>	<u>9.41%</u>	<u>0.0971</u>	N/A
SUBTOTAL OTHER FUNDS	1,030,865	0.1712	1,158,501	127,636	12.38%	0.1896	
TOTAL VILLAGE TAX LEVY W/O DEBT SERVICE	5,090,496	0.8454	5,368,788	278,292	5.47%	0.8785	
TOTAL LIBRARY TAX LEVY	<u>1,694,424</u>	0.2814	<u>1,787,056</u>	<u>92,632</u>	5.47%	0.2924	0.4600
TOTAL TAX LEVY-TRUTH IN-TAXATION PURPOSE	<u>6,784,920</u>	1.1268	<u>7,155,844</u>	<u>370,924</u>	<u>5.47%</u>	1.1709	
DEBT SERVICE LEVY							
DEBT SERVICE - Village	337,050	0.0560	0	-337,050	-100.00%	0.0000	
DEBT SERVICE - Library	<u>719,196</u>	0.1194	<u>683,855</u>	<u>-35,341</u>	<u>-4.91%</u>	0.1119	
TOTAL PROPERTY TAX LEVY	<u>7,841,166</u>	1.3022	<u>7,839,699</u>	<u>-1,467</u>	<u>-0.02%</u>	1.2828	
SPECIAL SERVICE AREA LEVY	<u>54,741</u>	n/a	<u>56,985</u>	2,244	4.10%		

5-A.7

**VILLAGE OF LAGRANGE
COMPARATIVE EQUALIZED ASSESSED VALUATIONS (EAV)
AND EAV GROWTH (NEW AND OTHER)**

EXHIBIT 2

<u>LEVY YEAR</u>	<u>ASSESSED VALUATION</u>	<u>X</u>	<u>STATE EQUALIZER FACTOR</u>	<u>=</u>	<u>(EAV)</u>	<u>EAV GROWTH INCREASE/ (DECREASE)</u>	<u>% INCR-/DCR</u>	<u>NEW GROWTH</u>	<u>OTHER GROWTH</u>
1991	100,926,777	X	2.0523	=	207,132,024	2,256,348	1.10%	922,718	1,333,630
1992	100,690,430	X	2.0897	=	210,412,791	3,280,767	1.58%	1,002,086	2,278,681
1993	110,172,321	** X	2.1407	=	235,845,887	25,433,096	12.09%	2,145,359	23,287,737
1994	110,094,531	X	2.1135	=	232,684,791	-3,161,096	-1.34%	1,202,720	-4,363,816
1995	115,678,873	X	2.1243	=	245,736,629	13,051,838	5.61%	11,861,094	1,190,744
1996	135,027,644	** X	2.1517	=	290,538,982	44,802,353	18.23%	15,663,453	29,138,900
1997	134,771,687	X	2.1489	=	289,610,878	-928,104	-0.32%	941,208	-1,869,312
1998	135,041,788	X	2.1799	=	294,377,593	4,766,715	1.65%	1,584,900	3,181,815
1999	147,451,925	** X	2.2505	=	331,840,558	37,462,965	12.73%	2,611,861	34,851,104
2000	136,689,081	X	2.2235	=	303,928,172	-27,912,386	-8.41%	658,319	-28,570,705
2001	137,556,750	X	2.3098	=	317,728,581	13,800,409	4.54%	1,903,529	11,896,880
2002	172,617,977	** X	2.4689	=	426,176,523	108,447,942	34.13%	7,078,569	101,369,373
2003	172,869,731	X	2.4598	=	425,224,964	-951,559	-0.22%	3,135,222	-4,086,781
2004	171,946,272	X	2.5757	=	442,882,014	17,657,050	4.15%	4,162,575	13,494,475
2005	209,260,588	** X	2.7320	=	571,699,926	128,817,912	29.09%	12,971,996	115,845,916
2006	210,506,792	X	2.7076	=	569,968,189	-1,731,737	-0.30%	9,787,889	-11,519,626
2007	211,730,722	X	2.8439	=	602,141,000	32,172,811	5.64%	7,194,191	24,978,620
2008*	214,895,390	** X	2.8439	=	611,141,000	9,000,000	7.22%	7,500,000	1,500,000

Notes:

- NEW GROWTH INCLUDES IMPROVEMENTS OR ADDITIONS THAT INCREASE THE EAV OF THE PROPERTY
- OTHER GROWTH INCLUDES REASSESSMENTS (TRIENNIAL/SALE OF PROPERTY), REMODELING, AND INC. OR DEC. IN THE STATE MULTIPLIER.
- EAV IS COMPUTED BY MULTIPLYING THE ASSESSED VALUATION BY THE STATE EQUALIZER FACTOR.

* ESTIMATED EAV, NEW AND OTHER GROWTH
** TRIENNIAL REASSESSMENT

5-A.8

VILLAGE OF LA GRANGE / PUBLIC LIBRARY
TAX LEVY SUMMARY

WHAT EFFECT WILL THIS HAVE ON MY TAXES?

	<u>2007 RATE</u>	<u>2008 RATE</u>
ASSESSED PROPERTY VALUE (As determined by Cook County Assessor's Office)	\$250,000	\$250,000
X (TIMES) CLASSIFICATION FACTOR	<u>16%</u>	<u>16%</u>
= (EQUALS) ASSESSED VALUATION	\$40,000	\$40,000
X (TIMES) STATE EQUALIZER	2.8439	2.8439
- (MINUS) HOMEOWNERS' EXEMPTION	<u>(\$5,000)</u>	<u>(\$5,000)</u>
= (EQUALS) EQUALIZED ASSESSED VALUATION	\$108,756	\$108,756
/ (DIVIDED BY)	<u>100</u>	<u>100</u>
	\$1,087.56	\$1,087.56
X (TIMES) VILLAGE TAX RATE	<u>0.901</u>	<u>0.879</u>
= (EQUALS) VILLAGE TAX BILL	\$980.33	\$955.42
DIFFERENCE IN VILLAGE RATE	(\$24.91)	
LIBRARY TAX RATE	<u>0.401</u>	<u>0.404</u>
= (EQUALS) LIBRARY TAX BILL	\$435.89	\$439.70
DIFFERENCE IN LIBRARY RATE	\$3.81	
TOTAL VILLAGE/PUBLIC LIBRARY TAX BILL	<u>\$1,416.22</u>	<u>\$1,395.12</u>
DIFFERENCE IN TOTAL TAX RATE	(\$21.10)	

5-A-9

VILLAGE OF LA GRANGE
Administration

BOARD REPORT

TO: Village President, Village Clerk, Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager

DATE: November 10, 2008

RE: **INTERGOVERNMENTAL AGREEMENT & ORDINANCE – YMCA REDEVELOPMENT PROJECT / LAND EXCHANGE BETWEEN THE VILLAGE OF LA GRANGE AND THE PARK DISTRICT OF LA GRANGE**

In April, the Village Board approved a mixed use redevelopment project at the northeast corner of La Grange Road and Ogden Avenue. The land use approval requires the developer to achieve or satisfy a number of conditions. Among those many conditions, the developer is required to reconstruct Shawmut Avenue and Locust Avenue.

The improvement of Shawmut Avenue requires use of property currently owned by the Park District of La Grange. The land use approval recognizes that the Village has to reach an agreement with the Park District that allows for the dedication of the necessary right-of-way in order for this improvement to be constructed.

In the spirit of intergovernmental cooperation between the Village and the Park District, it was discussed and agreed in concept that an even exchange of parcels would facilitate mutual interests for the comprehensive redevelopment of property in this geographic area of the Village.

The land exchange generally consists of the Village dedicating the East half of Parking Lot 14 to the Park District, while the Park District would dedicate to the Village, the vacated Shawmut Avenue right-of-way which runs along the length of the North side of the YMCA redevelopment project site. The area of the subject parcels is 33,741square feet and 33,086 square feet, respectively.

This matter was scheduled for action by the Village Board at its regular meeting on September 22, 2008, but was tabled for additional legal review by both parties.

The draft agreement previously before the Village Board has since been modified to be responsive to Park District concerns regarding the assignment and scope of responsibility for potential environmental remediation in the vicinity of the Park District maintenance shed and the unknown amount of additional land which may be required by the Village as it relates to the reconfiguration

and signalization of the intersection of Ogden Avenue and Locust Avenue. Those matters have since been resolved as follows:

1. The agreement recognizes that the Park District may assign demolition of the maintenance shed and remediation of any adverse environmental conditions. (The maintenance shed is located partly on the Shawmut Avenue property to be transferred to the Village.) The agreement also stipulates that the Park District will conduct environmental testing and if contaminated, the Park District may elect to either incur the expense of remediation or enter into an agreement with the Village to assume all environmental liability related to the property.
2. To offset the small amount of land required by the Village to reconfigure the intersection of Ogden Avenue and Locust Avenue, the Village has agreed to convey an additional strip of Village land (0.2824 acres in area) adjacent to the east side of Gordon Park. It is more commonly known as the west side of the Hazel Avenue public right-of-way and its general location is between Shawmut Avenue to the north and the access road to the water tower to the south. The Park District intends to use this area as additional parking to serve a redeveloped Gordon Park.

Attached for your consideration is a revised intergovernmental agreement which provides for the exchange of land between the Village and the Park District as described within this report. Maps depicting the precise location and boundaries of the involved parcels are included in the agreement as exhibits. Also attached for your consideration is an Ordinance which requests that the Park District transfer title in the subject property to the Village pursuant to the intergovernmental agreement.

Other key elements of the agreement are generally found in Section 10 and are as follows:

1. The subject parcels will revert back to original ownership if redevelopment of the YMCA property has not commenced within the next year.
2. The Village and the Park District will continue to maintain and operate the subject parcels as they currently exist until construction begins for the YMCA redevelopment project.

The Park District Board of Commissioners unanimously approved this agreement at its meeting on October 23, 2008.

It is our recommendation that the agreement and ordinance be approved.

5-B.1

**AN AGREEMENT FOR TRANSFERS OF PROPERTY
BY THE PARK DISTRICT OF LA GRANGE
TO THE VILLAGE OF LA GRANGE
AND BY THE VILLAGE OF LA GRANGE
TO THE PARK DISTRICT OF LA GRANGE**

THIS AGREEMENT (the "*Agreement*") is dated as of October ____, 2008, (the "*Execution Date*") and is made by the VILLAGE OF LA GRANGE, an Illinois municipal corporation, (the "*Village*") and the PARK DISTRICT OF LA GRANGE, an Illinois park district (the "*Park District*").

Section 1. Recitals

A. Recitals Related to Acquisition of YMCA and Park District Property by Developer.

- (1) The Greater La Grange YMCA (the "*YMCA*") owns property (the "*Y Property*") at the northeast corner of the intersection of Ogden Avenue and La Grange Road within the Village.
- (2) The YMCA moved its facilities out of the Y Property and entered into a contract to sell that property to a developer (the "*Developer*").
- (3) The Park District owns a park known as Gordon Park, which is located adjacent to and east of the Y Property.
- (4) The Park District also owns other parcels of property adjacent to the Y Property that are not integral to Gordon Park and that the Park District has determined are no longer necessary or useful to the Park District (the "*PD Sale Property*").
- (5) The Park District has entered into a contract for sale of the PD Sale Property to the Developer.
- (6) The Park District intends to use a substantial part of the proceeds from the sale of the PD Sale Property to undertake a comprehensive redevelopment of Gordon Park.

B. Recitals Related to Redevelopment.

- (1) The Village has approved the Developer's plans for redevelopment of the Y Property, the PD Sale Property, and related publicly owned property (collectively the "*Redevelopment Property*") with multiple-family dwellings, townhouses, and retail uses (the "*Redevelopment*").

5-B.2

- (2) It is necessary that Shawmut Avenue, Locust Avenue, and related circulation elements within the Redevelopment Property be improved as public rights-of-way to properly serve Gordon Park and the dwellings and retail uses within the Redevelopment.
- C. Recitals Related to Property Transfers By Park District and Village.
- (1) The Park District owns property commonly known as vacated Shawmut Avenue on which, for public purposes, a public road and related improvements will be built, which property is depicted and legally described in Exhibit A to this Agreement (the "*PD Transfer Property*"). The Park District is willing to convey the PD Transfer Property to the Village pursuant to the authority they have under the Illinois Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.* (the "*Property Transfer Act*").
 - (2) The Village owns property commonly known as the east half of Lot 14 that the Park District desires to own as part of Gordon Park, which property is depicted and legally described in Exhibit B to this Agreement (the "*Village Transfer Property*"). The Village is willing to convey the Village Transfer Property to the Park District under the Property Transfer Act.
 - (3) The Village and the Park District have the authority to transfer real property to each other under the Property Transfer Act and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*

Section 2. Transfer of PD Transfer Property to Village

The Park District will take all necessary and appropriate actions under the Property Transfer Act and will transfer to the Village all of the Park District's right, title, and interest in and to the PD Transfer Property by delivering to the Village, at a closing scheduled by the Park District and the Village not less than 15 days after the Execution Date or at such other time as agreed by the parties (the "*Closing*"), a fully executed, recordable, stamped warranty deed subject only to the PD Transfer Property Permitted Exceptions as defined in Subsection 4A of this Agreement.

Section 3. Transfer of Village Transfer Property to Park District

The Village will take all necessary and appropriate actions under the Property Transfer Act and will transfer to the Park District all of the Village's right, title, and interest in and to the Village Transfer Property by delivering to the Park District at the Closing a fully executed, recordable, stamped warranty deed subject only to the Village Transfer Property Permitted Exceptions as defined in Subsection 4B of this Agreement.

Section 4. Title Insurance

A. Title Commitment and Permitted Exceptions Related to PD Transfer Property.

- (1) The Park District will obtain and provide to the Village, at the Park District's expense, a title commitment from Chicago Title Insurance Company (the "*Title Company*") dated after the Execution Date for an ALTA Form B-1999 Title Policy for the PD Transfer Property in the amount of \$10,000.00, together with copies of all recorded documents referred to therein (the "*PD Transfer Property Title Commitment*").
- (2) If, not less than 10 days prior to the Closing, the Village notifies the Park District in writing about exceptions to title disclosed by the PD Transfer Property Title Commitment that are objectionable, then the Park District will promptly take all necessary actions to have those title defects cured or insured over and the Village and the Park District will extend the date of the Closing until the Park District has removed or caused the Title Company to insure over those title defects.

If the Village does not object to any title exceptions prior to the applicable dates, then the Village will have waived its right to object thereto and all such matters thereafter will be deemed permitted exceptions to title (the "*Permitted PD Transfer Property Exceptions*").

B. Title Commitment and Permitted Exceptions Related to Village Transfer Property.

- (1) The Village will obtain and provide to the Park District, at the Village's expense, a title commitment from the Title Company dated after the Execution Date for an ALTA Form B-1999 Title Policy for the Village Transfer Property in the amount of \$10,000.00, together with copies of all recorded documents referred to therein (the "*Village Transfer Property Title Commitment*").
- (2) If, not less than 10 days prior to the Closing, the Park District notifies the Village in writing about exceptions to title disclosed by the Village Transfer Property Title Commitment that are objectionable, then the Village will promptly take all necessary actions to have those title defects cured or insured over and the Park District and the Village will extend the date of the Closing until the Village has removed or caused the Title Company to insure over those title defects.

If the Park District does not object to any title exceptions prior to the applicable dates, then the Park District will have waived its right to object thereto and all such matters thereafter will be deemed permitted exceptions to title (the "*Permitted Village Transfer Property Exceptions*").

5-8.4

C. Title Policies.

- (1) The Village, at the Village's expense, will provide the Park District at the Closing with an owner's title policy for the Village Transfer Property, issued by the Title Company in accordance with the terms of the Village Transfer Property Title Commitment and the next sentence of this Paragraph (1), subject only to the Permitted Village Transfer Property Exceptions. The policy must provide for extended coverage.
- (2) The Park District, at the Park District's expense, will provide the Village at the Closing with an owner's title policy for the PD Transfer Property, issued by the Title Company in accordance with the terms of the PD Transfer Property Title Commitment, subject only to the Permitted PD Transfer Property Exceptions. The title policy must include an endorsement from the Title Company regarding the encroachment into the PD Transfer Property of the maintenance shed and appurtenances owned by the Park District (collectively the "*Maintenance Shed*"). The Park District will pay all costs for the Maintenance Shed endorsement. The policy must provide for extended coverage.

Section 5. Closing; Costs

The cost of recording each deed will be paid by the grantee. The Village and the Park District each will execute and deliver to the other such items as may be reasonably requested to consummate the Closing, including but not limited to execution of all necessary forms from the Title Company to effectuate a "New York Style" closing, including without limitation a GAP Undertaking and an ALTA Statement. For each transfer at the Closing, each party will bear the traditional costs of the grantor and grantee as applicable.

Section 6. No Real Estate Taxes

The Village represents that the Village Transfer Property currently is exempt from real estate taxes because of its ownership by the Village and, therefore, no real estate taxes should be due or payable at the Closing. The Park District represents that the PD Transfer Property currently is exempt from real estate taxes because of its ownership by the Park District and, therefore, no real estate taxes should be due or payable at Closing.

Section 7. Representations and Warranties of Park District

The Park District represents and warrants to the Village that, as of the date of this Agreement and the date of the Closing:

- (1) The Park District owns fee simple title to the PD Transfer Property;

5-13.5

- (2) The persons executing this Agreement on behalf of the Park District, and executing and delivering any other agreement or other item contemplated by this Agreement or otherwise required to fulfill the Park District's obligations hereunder, have full authority to bind the Park District to such obligations and to so act on behalf of the Park District;
- (3) There are no persons in possession of, or having a right to possession of, any part of the PD Transfer Property other than the Park District;
- (4) The Park District has the authority and the legal right to make, deliver, and perform this Agreement and has taken all necessary actions and obtained all required consents and approvals to authorize the execution, delivery, and performance of this Agreement;
- (5) The Park District has not entered into any options, purchase and sale agreements, leases, service contracts, or other contracts affecting the PD Transfer Property other than this Agreement;
- (6) The execution, delivery, and performance of this Agreement is not prohibited by any requirement of law or under any contractual obligation of the Park District, will not result in a breach or default under any agreement to which the Park District is a party or to which the Park District is bound, and will not violate any restriction, court order, or agreement to which the Park District is subject;
- (7) The Park District has no knowledge of any liability, responsibility, or obligations, whether fixed, unliquidated, absolute, contingent, or otherwise, under any federal, State of Illinois, or local environmental laws or regulations, including any liability, responsibility, or obligation for fines or penalties, or for investigation, expense, removal, or remedial action to effect compliance with or discharge any duty, obligation, or claim under any such laws or regulations, and the Park District has no reason to believe that any claims, actions, suits, proceedings, or investigations under such laws or regulations exist or may be brought or threatened. Further, the Park District has no knowledge of any prior or present release or threatened release, as those terms are defined in CERCLA, at or in the vicinity of the PD Transfer Property of any hazardous substance (as defined under applicable environmental laws) or petroleum; and
- (8) The Park District has not received any notices from any governmental authority with respect to the PD Transfer Property that have not been corrected.

5-13.6

Section 8. Representations and Warranties of Village

The Village represents and warrants to the Park District that, as of the date of this Agreement and the date of the Closing:

- (1) The Village owns fee simple title to the Village Transfer Property;
- (2) The persons executing this Agreement on behalf of the Village, and executing and delivering any other agreement or other item contemplated by this Agreement or otherwise required to fulfill the Village's obligations hereunder, have full authority to bind the Village to such obligations and to so act on behalf of the Village;
- (3) There are no persons in possession of, or having a right to possession of, any part of the Village Transfer Property other than the Village, except persons with decals issued by the Village granting parking privileges within the Village Transfer Property, which parking privileges will be relocated or otherwise extinguished from the Village Transfer Property prior to the occurrence of the earthmoving activity described in Subsection 10B of this Agreement;
- (4) The Village has the authority and the legal right to make, deliver, and perform this Agreement and has taken all necessary actions and obtained all required consents and approvals to authorize the execution, delivery, and performance of this Agreement;
- (5) The Village has not entered into any options, purchase and sale agreements, leases, service contracts, or other contracts affecting the Village Transfer Property other than this Agreement;
- (6) The execution, delivery, and performance of this Agreement is not prohibited by any requirement of law or under any contractual obligation of the Village, will not result in a breach or default under any agreement to which the Village is a party or to which the Village is bound, and will not violate any restriction, court order, or agreement to which the Village is subject;
- (7) The Village has no knowledge of any liability, responsibility, or obligations, whether fixed, unliquidated, absolute, contingent, or otherwise, under any federal, State of Illinois, or local environmental laws or regulations, including any liability, responsibility, or obligation for fines or penalties, or for investigation, expense, removal, or remedial action to effect compliance with or discharge any duty, obligation, or claim under any such laws or regulations, and the Village has no reason to believe that any claims, actions, suits, proceedings, or investigations under such laws or regulations exist or may be brought or threatened.

Further, the Village has no knowledge of any prior or present release or threatened release, as those terms are defined in CERCLA, at or in the vicinity of Village Transfer Property of any hazardous substance (as defined under applicable environmental laws) or petroleum; and

- (8) The Village has not received any notices from any governmental authority with respect to the Village Transfer Property that have not been corrected.

Section 9. Accuracy of Representations as of Closing; Survival

As a condition to the Closing for the benefit of each party, the representations and warranties of each party in Sections 7 and 8 of this Agreement must be true and correct at the time of the Closing. Each party must promptly notify the other in the event that either party has actual knowledge that a representation or warranty of that party set forth in Section 7 or 8 is not true and correct. The representations and warranties in Sections 7 and 8 of this Agreement will survive the Closing.

Section 10. Terms and Conditions Related to Transfer Properties

A. Removal of Maintenance Shed; Remediation. The Park District, on its own or through a third party, will cause the Maintenance Shed to be demolished in its entirety and removed from the PD Transfer Property immediately at, or promptly after, the commencement of the earthmoving activity described in Subsection B of this Section. In addition, the Park District, promptly after the Maintenance Shed is demolished, will (1) cause one or more borings to be taken of the soil from the PD Transfer Property in the area of the Maintenance Shed, (2) cause that soil to be properly tested for contaminants, and (3) to the extent required by applicable federal or State of Illinois regulations, remediate any adverse environmental condition within the PD Transfer Property related to the Maintenance Shed, subject only to the exception stated in the next sentence of this Subsection A. The Park District may reasonably determine not to remediate the PD Transfer Property because the expense of the remediation is beyond the Park District's means. In that case, the Park District agrees to indemnify, defend, and hold harmless the Village from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses that may arise in connection with any such adverse environmental condition, and the Park District must enter into an environmental protection agreement with the Village, in a form reasonably acceptable to the Village, fully setting forth that agreement.

B. Continued Use of Transferred Properties; Indemnifications. Until the Developer has posted performance security with the Village and commenced earthmoving activity for the Redevelopment, or until such other time as the Park District and the Village agree:

- (1) The Park District may continue to use the PD Transfer Property after the Closing for park and recreation purposes in the same manner as that

5-13.8

property had been used by the Park District immediately prior to the Closing.

- (2) The Village may continue to use the Village Transfer Property after the Closing for parking and related uses in the same manner as that property had been used by the Village immediately prior to the Closing.
- (3) Each party may keep, in the same manner as existed prior to the Closing, revenue derived from operations or programs related to that party's Transfer Property.
- (4) The Park District will indemnify and defend the Village against any and all claims, actions, and liabilities of any kind related to or arising out of the Park District's use of the PD Transfer Property after the Closing. Specifically, but without any limitation on the scope of the previous sentence, the Park District will indemnify and defend the Village against any and all claims, actions, and liabilities of any kind related to or arising out of the use by the Park District, or by any other person or entity, except the Village, of the Maintenance Shed. In addition, the Park District will indemnify, defend, and hold harmless the Village from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses that may arise in connection with any adverse environmental condition or liability related to the Maintenance Shed. This indemnification of the Village by the Park District includes, without limitation, costs incurred in connection with any future, required investigation of site conditions or any cleanup, remediation, removal, or restoration work required by any governmental authority.
- (5) The Village will indemnify and defend the Park District against any and all claims, actions, and liabilities of any kind related to or arising out of the Village's use of the Village Transfer Property after the Closing, specifically including, without limitation, any claim by any person relating to parking decals and the right to continue to use the Village Transfer Property for parking beyond the occurrence of the earthmoving activity described in this Subsection B.

C. No Subletting or other Transfers. During the time the Village may continue to use the Village Transfer Property after Closing, the Village may not sublet or in any other manner transfer any right of possession or use it has to the Village Transfer Property to any person or entity. During the time the Park District may continue to use the PD Transfer Property after Closing, the Park District may not sublet or in any other manner transfer any right of possession or use it has to the PD Transfer Property to any person or entity. Any attempt by a party to transfer any such right of possession or use in violation of this Subsection C is a nullity and will be deemed a breach of this Agreement.

D. No Liens or other Encumbrances. After the Closing, the Village may not allow any lien or any encumbrance of any kind to be placed or maintained on or against the Village Transfer Property at any time, and the Park District may not allow any lien or any encumbrance of any kind to be placed or maintained on or against the PD Transfer Property, at any time except only as provided in Subsection E of this Section for the temporary construction easement on the Village Transfer Parcel. If any encumbrance is placed in violation of this Subsection D as a result of any action or omission of the party, then that party must promptly cause, at its own expense, that encumbrance to be removed or otherwise extinguished.

E. Temporary Construction Easement Over Village Transfer Property. The Park District will grant to the Village, or to the Developer at the Village's direction, a temporary easement over a portion of the Village Transfer Property for ingress, egress, and construction activities related to construction of Locust Avenue and the Redevelopment (a "*Construction Easement*"). The Construction Easement will include reasonable and typical terms for the use and care of the easement premises.

F. Village Commitment of Additional Parcel of Land For Redevelopment of Gordon Park. The Village agrees and commits to transfer to the Park District, in accordance with the standards of the Property Transfer Act and at the time when construction is commencing on the redevelopment of Gordon Park, all of the Village's ownership rights, title, and interest (except easements as described later in this Subsection F) in a parcel of property located along the east side of Gordon Park and the west side of Hazel Avenue (the "*Additional Village Parcel*"), as generally depicted in Exhibit C to this Agreement. The Village will transfer the Additional Village Parcel to the Park District without additional compensation to the Village. The Park District will incorporate the Additional Village Parcel as part of the redeveloped Gordon Park for a paved parking lot or open space. The Village will reserve easement rights in the Additional Village Parcel related to underground public utilities within the parcel. The Park District will not construct any structure on the Additional Village Parcel or otherwise impede the Village's ability to maintain, repair, replace, or otherwise manage the underground utilities.

G. Additional Land for Intersection of Shawmut and Locust Avenues. The Park District and the Village acknowledge that the intersection of reconstructed Shawmut Avenue and Locust Avenue may be designed and constructed to create a traffic circle or island or similar traffic-calming design (the "*New Shawmut/Locust Intersection*"). The construction of the New Shawmut/Locust Intersection thus may require a small amount of additional land adjacent to the existing Shawmut and Locust intersection. If such additional land is required and that additional land is owned by the Park District, then the Park District will convey title to that land promptly to the Village, in fee simple and without additional compensation to the Park District, for use by the Village as part of the New Shawmut/Locust Intersection.

H. Ownership of Land for Connection of Locust Avenue to Ogden Avenue. The Park District and the Village acknowledge (1) that there is uncertainty about the

ownership of a small portion of the land necessary for the connection of Locust Avenue to Ogden Avenue generally in the manner depicted in Exhibit D to this Agreement (the "Ogden Connection") and (2) that the Illinois Department of Transportation ("IDOT"), which owns Ogden Avenue, may require a reconfiguration of the currently proposed Ogden Connection depicted in Exhibit D to this Agreement (the "Reconfigured Ogden/Locust Intersection"). If the Park District owns some of the land necessary for the Ogden Connection, or if the Park District owns property within which a portion of the Reconfigured Ogden/Locust Intersection must be located as required by IDOT, then the Park District will convey title to that land promptly to the Village, in fee simple and without additional compensation to the Park District, for use by the Village as part of the Ogden Connection or the Reconfigured Ogden/Locust Intersection, as applicable.

I. Reverter. The Park District acknowledges that the Village Transfer Property is subject to a right of reverter in favor of the Village, and the Village acknowledges that the PD Transfer Property is subject to a right of reverter in favor of the Park District. Pursuant to La Grange Ordinance No. _____, the PD Transfer Property is to be constructed as the Shawmut Avenue public roadway owned by the Village and the Village Transfer Property is to be developed as part of a renovated Gordon Park, if the Developer builds the Redevelopment on the Redevelopment Property. If the Developer has not (1) posted performance security with the Village in a form satisfactory to the Village and (2) commenced earthmoving activity for the Redevelopment by December 31, 2009, or some later date certain to which the Park District and the Village may agree in writing (the "Reverter Trigger"), then the PD Transfer Property will revert automatically to the Park District and the Village Transfer Property will revert automatically to the Village. The Park District, at the Closing, will deliver to the Village a quitclaim deed conveying the Village Transfer Property to the Village at the occurrence of the Reverter Trigger, and the Village, at the Closing, will deliver to the Park District a quitclaim deed conveying the PD Transfer Property to the Park District at the occurrence of the Reverter Trigger. The rights of reverter expire automatically when the Developer has posted performance security and commenced earthmoving activity as provided in this Subsection I.

Section 11. Breach

A. Park District Breach. If the Park District breaches any of its obligations under this Agreement, and the Village is not in breach of any of its obligations hereunder, then the Village may send written notice of breach to the Park District. If the Park District does not cure the breach within 30 days after receipt of the notice of breach, then the Village may terminate this Agreement.

B. Village Breach. If the Village breaches any of its obligations under this Agreement, and the Park District is not in breach of any of its obligations hereunder, then the Park District may send written notice of breach to the Village. If the Village does not cure the breach within 30 days after receipt of the notice of breach, then the Park District may terminate this Agreement.

Section 12. General Provisions

A. Notice. Any notice or communication required or permitted to be given under this Agreement must be in writing and be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (iv) by facsimile. Facsimile notices will be deemed delivered on the date of facsimile transmission to the applicable facsimile number, provided that such transmission is followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices will be deemed received on the earlier of (a) actual receipt, (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit, or (c) three business days after deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party has the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address will be effective until actually received.

Notices and communications to the Village must be addressed to, and delivered at, the following addresses:

Village of La Grange
53 South La Grange Road
La Grange, Illinois 60525
Attention: Village Manager
Facsimile: (708) 579-2313

with a copy to:
Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, Illinois 60603
Attention: Mark E. Burkland
Facsimile: (312) 578-6666

Notices and communications to the Park District must be addressed to, and delivered at, the following address:

La Grange Park District
536 East Avenue
La Grange, Illinois 60525
Attention: Executive Director
Facsimile: (708) 352-8591

with a copy to:

Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
Attention: Richard J. Traub
Facsimile: (312) 360-6572

B. Time of the Essence. Time is of the essence in the performance of all terms and provisions of this Agreement.

C. Governing Law. This Agreement is governed by and enforced in accordance with the internal laws of, but not the conflicts of laws rules of, the State of Illinois.

D. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the acquisition by the Village of the PD Transfer Property, the acquisition by the Park District of the Village Transfer Property, and the other matters stated in this Agreement, and this Agreement supersedes every prior agreement and negotiation between the parties, whether written or oral, relating to the subject matter of this Agreement.

E. Incorporation of Exhibits. Exhibits A, B, C, and D attached to this Agreement are incorporated into and made a part of this Agreement by this reference.

F. Amendments and Modifications. No amendment or modification to this Agreement will be effective unless and until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

G. Calendar Days and Time. Any reference herein to a "day" or to "days" means a calendar day or days and not a business day or days.

H. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation may be made, or be valid, against any of the parties.

Section 13. Patriot Act

The Village and the Park District each represent and warrant that it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity, or nation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Execution Date.

PARK DISTRICT OF LA GRANGE

Signature: _____

Printed Name: _____

Title: _____

Attest:

Signature: _____

Printed Name: _____

Title: _____

VILLAGE OF LA GRANGE

Signature: _____

Printed Name: _____

Title: _____

Attest:

Signature: _____

Printed Name: _____

Title: _____

5087111_v12

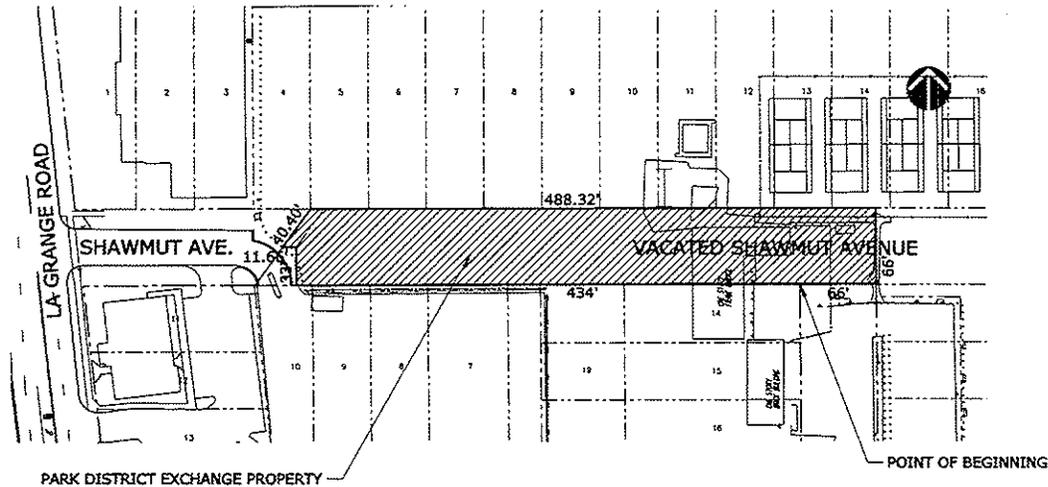
5-B.14

EXHIBIT A

Depiction and Legal Description of PD Transfer Property

[to be inserted]

5-10-15



LEGAL DESCRIPTION - SHAWMUT AVENUE EXCHANGE PARCEL

THAT PART OF VACATED SHAWMUT AVENUE (VACATED BY DOCUMENT NO. 17706352), IN THE SHAWMUT AVENUE ADDITION TO LA GRANGE, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 17, 1895 AS DOCUMENT 2203386, AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 14 IN BLOCK 3, OF THE AFORESAID SHAWMUT AVENUE ADDITION TO LA GRANGE; THENCE SOUTH 89°58'28" WEST, A DISTANCE OF 434.00 FEET, ALONG THE NORTH LINE OF AFORESAID BLOCK 3; THENCE NORTH 00°04'06" WEST, A DISTANCE OF 33.00 FEET, TO THE CENTERLINE OF VACATED SHAWMUT AVENUE; THENCE SOUTH 89°58'28" WEST, A DISTANCE OF 11.66 FEET, ALONG SAID CENTERLINE TO THE WESTERLY TERMINUS OF VACATED SHAWMUT AVENUE; THENCE NORTH 35°13'14" EAST, A DISTANCE OF 40.40 FEET, ALONG SAID WESTERLY TERMINUS OF VACATED SHAWMUT AVENUE, TO THE SOUTHEAST CORNER OF LOT 4 IN BLOCK 2 OF AFORESAID SHAWMUT ADDITION TO LA GRANGE; THENCE NORTH 89°58'28" EAST, A DISTANCE OF 488.32 FEET, ALONG THE SOUTH LINE OF AFORESAID BLOCK 2 TO A POINT OF INTERSECTION WITH THE EAST LINE OF LOCUST AVENUE EXTENDED; THENCE SOUTH 00°04'06" EAST, A DISTANCE OF 66.00 FEET, ALONG SAID EAST LINE OF LOCUST AVENUE EXTENDED TO THE NORTHWEST CORNER OF LOT 19 IN BLOCK 4 OF THE AFORESAID SHAWMUT AVENUE ADDITION TO LA GRANGE; THENCE SOUTH 89°58'28" WEST, A DISTANCE OF 66.00 FEET, ALONG THE SOUTH LINE OF VACATED SHAWMUT AVENUE, TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

AREA OF PROPERTY = 33,886 SQUARE FEET OR 0.7596 ACRES



HEUER AND ASSOCIATES
 Consulting Engineers
 2213 Eisenhower Drive - Suite 102 Westchester, IL 60134-9811 708-482-1000

PROPOSED PROPERTY EXCHANGE
VILLAGE OF LA GRANGE/PARK DISTRICT OF LA GRANGE

EXHIBIT A: PD EXCHANGE PROPERTY

FINAL SIZE SCALE: NTS	SHEET
TABULAR SCALE: 1" = 100'	1
DRAWN BY: H&A	of 1
PROJECT NO: 2004 023	
DATE: 02/10/2008	

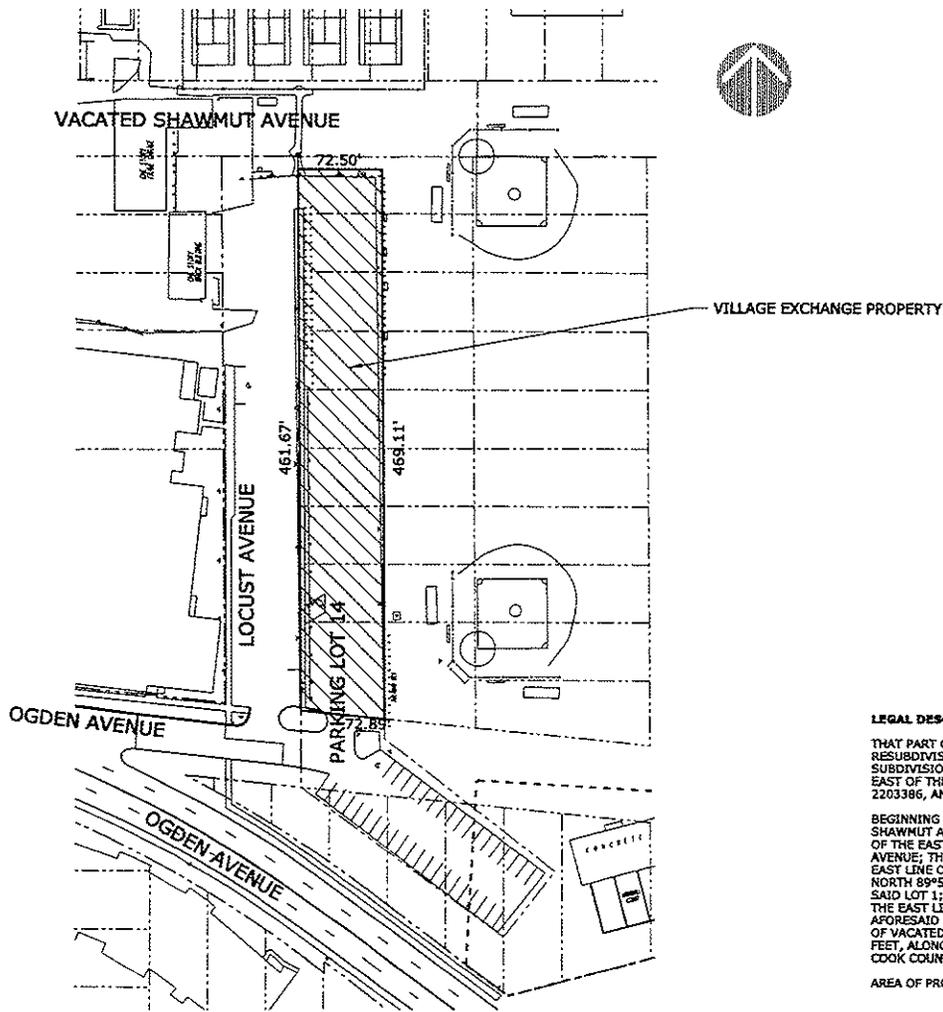
5-10.16

EXHIBIT B

Depiction and Legal Description of Village Transfer Property

[to be inserted]

5-13.17



LEGAL DESCRIPTION - LOT 14 EXCHANGE PARCEL

THAT PART OF LOT 1 IN THE VILLAGE OF LA GRANGE PARKING LOT 14 RESUBDIVISION OF THE SHAWMUT AVENUE ADDITION TO LA GRANGE, BEING A SUBDIVISION IN THE NORTH HALF OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 17, 1895 AS DOCUMENT 2203386, AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 11 IN BLOCK 4, OF THE AFORESAID SHAWMUT AVENUE ADDITION TO LA GRANGE, ALSO BEING THE POINT OF INTERSECTION OF THE EAST LINE OF LOCUST AVENUE AND THE NORTH LINE OF VACATED OGDEN AVENUE; THENCE NORTH 00°04'06" WEST, A DISTANCE OF 461.67 FEET, ALONG THE EAST LINE OF LOCUST AVENUE, ALSO BEING THE WEST LINE OF SAID LOT 1; THENCE NORTH 89°58'28" EAST, A DISTANCE OF 72.50 FEET, ALONG THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 00°04'06" EAST, A DISTANCE OF 469.11 FEET, ALONG THE EAST LINE OF SAID LOT 1 TO THE SOUTH LINE OF LOT 11 IN BLOCK 4 OF THE AFORESAID SHAWMUT AVENUE ADDITION TO LA GRANGE, ALSO BEING THE NORTH LINE OF VACATED OGDEN AVENUE; THENCE NORTH 84°10'01" WEST, A DISTANCE OF 72.89 FEET, ALONG THE SOUTH LINE OF SAID LOT 11, TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

AREA OF PROPERTY = 33,741 SQUARE FEET OR 0.7746 ACRES

HEUER AND ASSOCIATES

Consulting Engineers

3315 Enterprise Drive - Suite 102 Wheeling, IL 60154-5811 708-493-1000

PROPOSED PROPERTY EXCHANGE
VILLAGE OF LA GRANGE/PARK DISTRICT OF LA GRANGE

EXHIBIT B: VILLAGE EXCHANGE PROPERTY

FILE SIZE SCALE: NTS	SHEET
TAXID SCALE: 1" = 100'	1
DRAWN BY: H&A	OF 1
PROJECT NO.: 2008 022	
DATE: 06/10/2008	

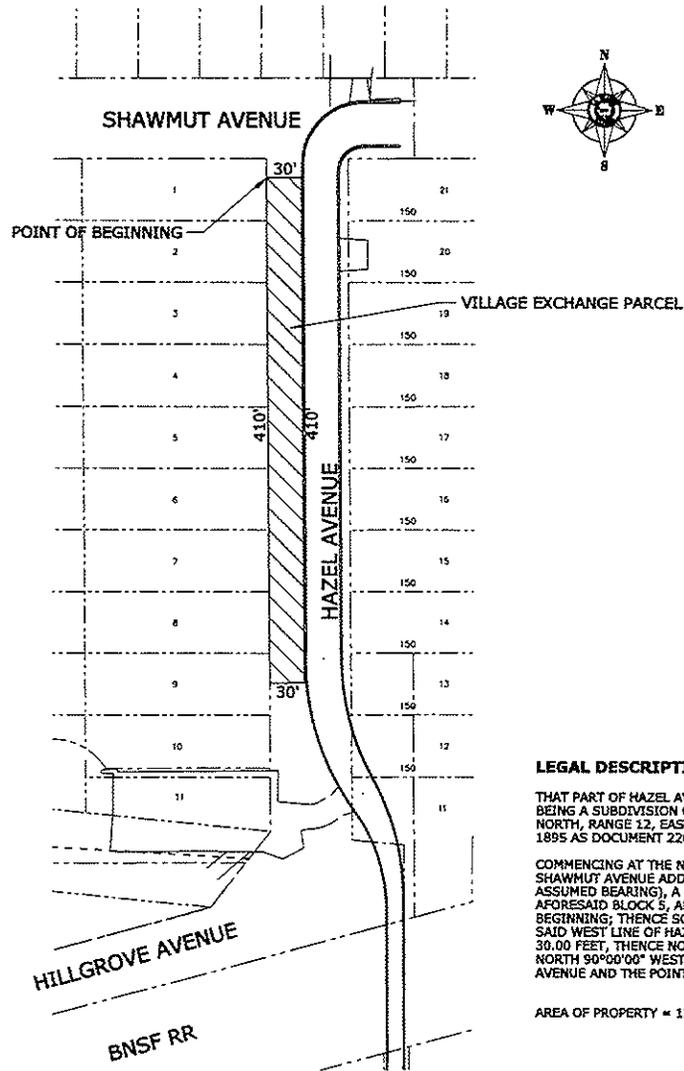
5-10.18

EXHIBIT C

Depiction of Additional Village Parcel
at East Side of Gordon Park along West Side of Hazel Avenue

[to be inserted]

5-8.19



LEGAL DESCRIPTION - HAZEL AVENUE EXCHANGE PARCEL

THAT PART OF HAZEL AVENUE, IN THE SHAWMUT AVENUE ADDITION TO LA GRANGE, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 17, 1895 AS DOCUMENT 2203386, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN BLOCK 5, OF THE AFORESAID SHAWMUT AVENUE ADDITION TO LA GRANGE; THENCE SOUTH 00°00'00" WEST (AN ASSUMED BEARING), A DISTANCE OF 15.00 FEET, ALONG THE EAST LINE OF THE AFORESAID BLOCK 5, ALSO BEING THE WEST LINE OF HAZEL AVENUE, TO A POINT OF BEGINNING; THENCE SOUTH 00°00'00" WEST, A DISTANCE OF 410.00 FEET, ALONG SAID WEST LINE OF HAZEL AVENUE; THENCE SOUTH 50°00'00" EAST, A DISTANCE OF 30.00 FEET, THENCE NORTH 00°00'00" EAST, A DISTANCE OF 410.00 FEET; THENCE NORTH 50°00'00" WEST, A DISTANCE OF 30.00 FEET, TO THE WEST LINE OF HAZEL AVENUE AND THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

AREA OF PROPERTY = 12,300 SQUARE FEET OR 0.2824 ACRES

HEUER AND ASSOCIATES
Consulting Engineers

2315 Enterprise Drive - Suite 102 Westchester, IL 60154-2811 708-492-1000

PROPOSED PROPERTY EXCHANGE
VILLAGE OF LA GRANGE/PARK DISTRICT OF LA GRANGE

EXHIBIT C: VILLAGE EXCHANGE PARCEL

FULL SIZE SCALE NTS	
TABLOID SCALE	1" = 100'
DRAWN BY	MAN
PROJECT NO	3308.032
DATE	10/22/2003

SHEET
1
OF
1

5-18-20

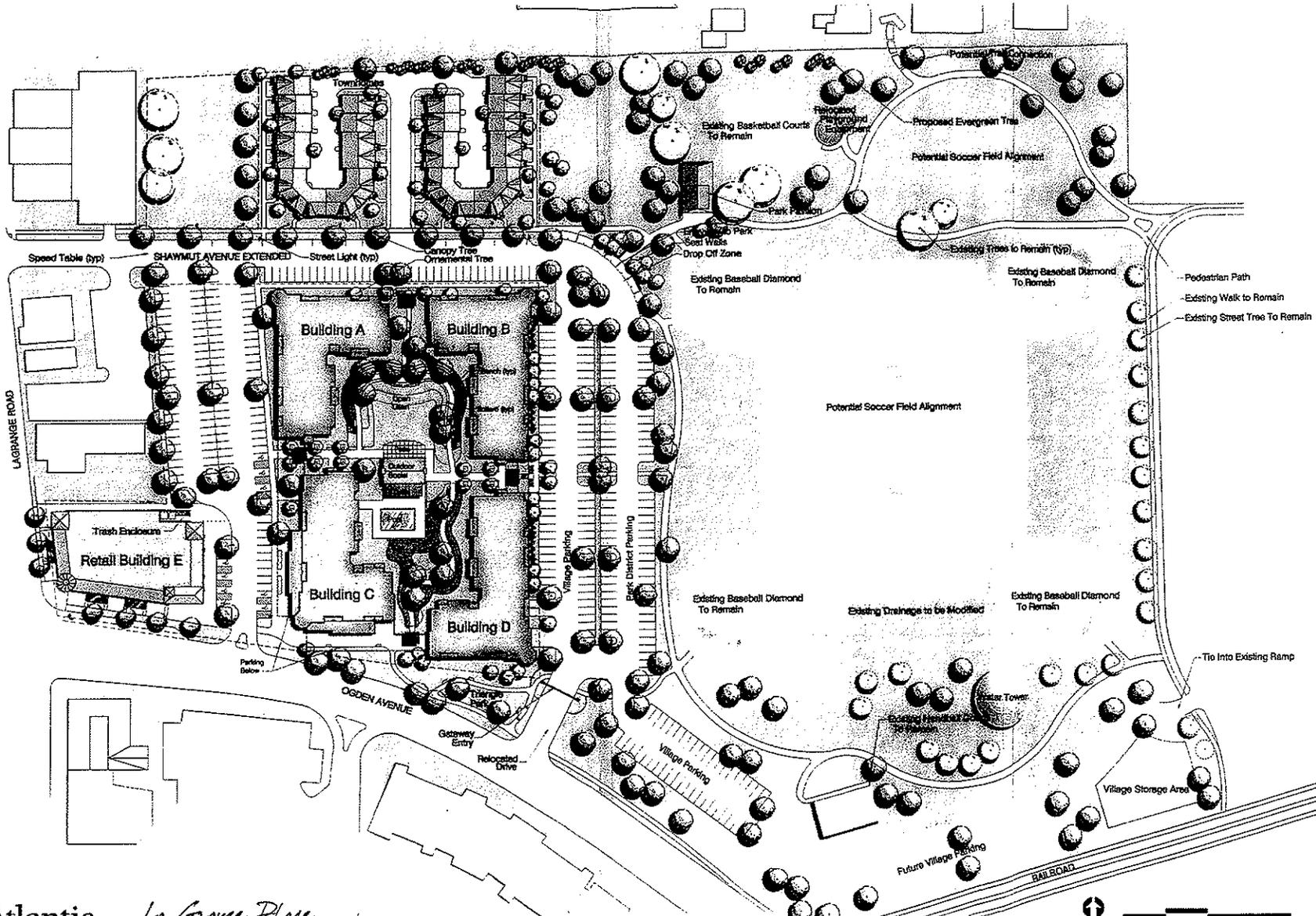
EXHIBIT D

**Depiction of Current Design of Connection
of Locust Avenue with Ogden Avenue**

[to be inserted]

5087111_v12

5-13.21



La Grange Place

Regional Site Plan

LaGrange
Illinois



48 South Vail Avenue
Arlington Heights, Illinois 60005
Job No. 06075 ©2007



January 18, 2008

5-B.22

VILLAGE OF LA GRANGE

ORDINANCE NO. _____

AN ORDINANCE REQUESTING THE TRANSFER OF PROPERTY
FROM THE PARK DISTRICT OF LA GRANGE
TO THE VILLAGE OF LA GRANGE
PURSUANT TO THE LOCAL GOVERNMENT PROPERTY TRANSFER ACT

WHEREAS, the Park District of La Grange (the "*Park District*") holds legal title to a parcel of property commonly known as vacated Shawmut Avenue within the Village of La Grange, which parcel is depicted and legally described in Exhibit A attached to and by this reference incorporated into this Ordinance (the "*Property*"); and

WHEREAS, all of the Park District's territory, including the Property, lies within the corporate limits of the Village; and

WHEREAS, the Village has determined that it is necessary and convenient for the Village to use, occupy, and improve the Property for a public roadway and other public purposes (the "*Public Purposes*"); and

WHEREAS, the Village desires that the Park District of La Grange transfer the Park District's rights and title in the Property to the Village, pursuant to the authority conferred by the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.* and other applicable authority; and

WHEREAS, the Village desires to acquire the Park District's rights and title to the Property for the Public Purposes; and

WHEREAS, the President and Board of Trustees of the Village of La Grange have determined that it is necessary, appropriate, and in the best interests of the Village to acquire the Property by transfer from the Park District for the Public Purposes; and

WHEREAS, the Village and the Park District have reached an agreement titled "An Agreement For Exchange Of Property Between The Park District Of La Grange And The Village Of La Grange" (the "*Property Transfer Agreement*") that includes terms and provisions related to the transfer of the Property to the Village;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are hereby incorporated into this Ordinance by this reference as findings of the President and Board of Trustees.

Section 2. Request to Acquire Property. The President and Board of Trustees of the Village of La Grange request that the Park District of La Grange execute a deed

5-18-23

and take all other necessary and appropriate actions, in conjunction with the necessary and appropriate actions of the Village, to transfer all of the Park District's rights and title in the Property to the Village, in accordance with the Property Transfer Agreement.

Section 3. Authorization to Acquire. The President and Village Clerk are hereby authorized to take all steps necessary and appropriate to acquire the Property and to cause the deed for the property to be recorded in the Office of the Cook County Recorder of Deeds.

Section 4. Effective Date. This Ordinance will be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this ____ day of _____ 2008.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____ 2008.

Village President

ATTEST:

Village Clerk

5086069_v1

5-18-24

EXHIBIT A

DEPICTION AND LEGAL DESCRIPTION OF THE PROPERTY

[to be added by staff]

5086069_v1

5-13-25

VILLAGE OF LA GRANGE
Administrative Offices

BOARD REPORT

TO: Village President, Village Clerk,
Board of Trustees and Village Attorney

FROM: Robert J. Pilipiszyn, Village Manager

DATE: November 10, 2008

RE: **AGREEMENT — PUBLIC-PRIVATE PARTNERSHIP FOR THE
RENOVATION OF THE LA GRANGE THEATER**

Over the past year, the Village Board has critically evaluated a proposal from the owners of the La Grange Theater to enter into a public-private partnership for the renovation of the theater. At its regular meeting on October 13, 2008, the Village Board concluded its discussion and directed Village staff to negotiate a renovation agreement with the owners based on a Trustee-conceived proposal whereby the Village would purchase a facade easement from the owners of the theater in the amount of \$1.0 million in TIF funds. This easement would be repurchased by the theater owners in the full amount of \$1.0 million at the time that the theater ceases to operate. The public record should reflect that the entire Village Board supports public participation in the renovation of the theater; it is generally the amount and source of public funds where opinions differed.

Attached for your consideration is a proposed agreement between the Village and the owners for the renovation of the La Grange Theater. Highlights of the agreement are as follows:

1. The Village will purchase an easement to preserve the facade of the theater. It is not the entire terra cotta facade generally associated with the theater building. Rather, it is the building face at 80 S. La Grange Road which encompasses not only the terra cotta facade at that address but also the box marquee, ticket office, portico, theater entrance and window display.
2. The theater owners' receipts from the sale of the facade easement to the Village, plus an additional owners' contribution of \$650,000, will be deposited into a renovation payment account to be administered by an escrow agent.
3. The owners must submit a renovation plan, a renovation budget and a renovation schedule before any building permit is issued. Reasonable detail as to scope, materials and general order is to be included.

As it has been discussed by the Village Board over the past several months, the scope of improvements are divided into two categories: infrastructure (areas of Village investment) and operational/business-related improvements (owners' responsibility).

The owners propose the following infrastructure improvements:

1. Replace or upgrade major building systems and utilities — water, sewer, mechanical (HVAC), electrical, plumbing.
2. Install new fire detection and fire alarm system to meet current code requirements. Add fire sprinkler system in basement.
3. Construct new, ADA-compliant men's and women's restrooms on the first floor, adjacent to Theater 2.
4. Clean, spot repair and tuck-point facade.
5. Extensive roof rehabilitation and parapet work.
6. Repairs to portico ceiling and lighting (inset area between box marquee and front door entrance).
7. New doors/exiting throughout the theater based on scope of improvements described above.

The owners propose the following business-related improvements:

1. Upgrade projection equipment and general improvements to main projection room.
2. Reconstruct Theater 1.
3. Rehabilitation of existing concession area.
4. Reconstruct lobby area and ticket booth.
5. Lost revenue costs and contingencies.

5-C.1

4. The Village's authority to review and approve construction takes place at several control points. They are: at time of permit and plan review; during construction; and at time of final inspection.
5. There is a strict process governing the disbursement of funds.
6. Upon the completion of construction, the owners will endeavor to achieve and maintain sub-first run theater status.
7. The owners commit to undertake additional improvements in the future in the amount of \$350,000.

Future improvements include a new box marquee, the proposed vertical "La Grange" marquee and the pediment which would support the vertical marquee.

Other phased improvements recommended by the owners include constructing the second set of bathrooms towards the front lobby and exiting work which would be required by code as a result of the second set of restrooms.

8. An advisory commission comprised of Village officials and theater representatives will review and monitor the operation of the theater at least annually and will report their findings and recommendations to the Village Board.
9. The Village has the right to review and approve any change in partnership structure or successor owners.
10. The owners will repurchase the facade easement from the Village for \$1.0 million at the time that the theater ceases to operate.

In addition, the Village has met with the bank which holds the first mortgage on the theater to obtain their consent to allow the Village to purchase an interest in the theater property. The bank has indicated a willingness to accommodate the Village in concept. While further legal review and institutional analysis is required, the bank indicated that it will make every reasonable effort to fashion an agreement acceptable to all parties. The result of a subsequent meeting with the bank is likely to include minor revisions to the renovation agreement to be sure that its terms are consistent with the bank's agreement with the Village regarding the facade easement purchase. (The agreement between the bank and the Village will come to the Village Board for review and approval as soon as proposed terms can be negotiated.)

5-c.2

Board Report
RE: Public-Private Partnership
for the Renovation of the
La Grange Theater
November 10, 2008 — Page 4

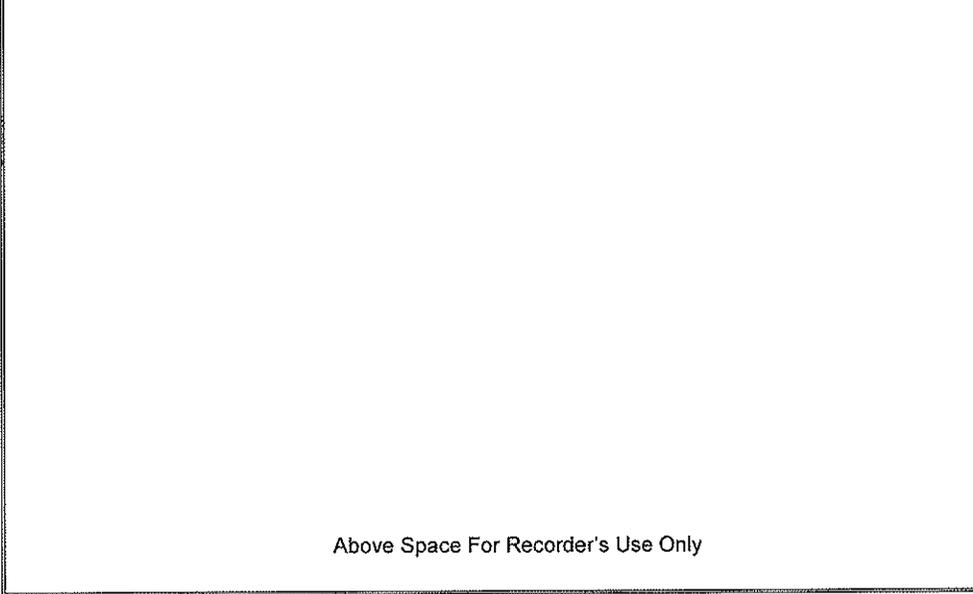
We have discussed this agreement with the owners of the theater. The owners can ascend to the agreement in principal, subject to a resolution of an unintended, adverse tax consequence. At this time, we also do not have final input from their legal counsel. As a result, it is possible that the structure of the core agreement may need to be revised as well as clarification of several terms. Nonetheless, we felt it was important to have a draft of the agreement in the hands of the Village Board, and available for public review, on our regular delivery schedule. We hope to have more information to the Village Board prior to Monday night.

F:\USERS\cbenjamin\BRDREPTS\lgtheaterredevagreement.doc

5-c.3

**THIS DOCUMENT
PREPARED BY AND
AFTER RECORDING
RETURN TO:**

Mark E. Burkland
Holland & Knight LLP
131 South Dearborn
30th Floor
Chicago, Illinois 60603



Above Space For Recorder's Use Only

**AN AGREEMENT
BETWEEN THE VILLAGE OF LA GRANGE
AND SEAMUS KNOLLS, L.L.C.
FOR RENOVATION OF THE LA GRANGE THEATRE,
A FAÇADE PRESERVATION EASEMENT,
AND THEATRE OPERATION COVENANTS**

DATED AS OF _____, 2008

5-C.4

**AN AGREEMENT
BETWEEN THE VILLAGE OF LA GRANGE
AND SEAMUS KNOLLS, L.L.C.
FOR THE RENOVATION OF THE LA GRANGE THEATRE,
A FAÇADE PRESERVATION EASEMENT, AND
THEATRE OPERATION COVENANTS**

THIS RENOVATION AGREEMENT (this "*Agreement*") is dated as of the ____ day of _____ 2008 (the "*Effective Date*") and is by and between the VILLAGE OF LA GRANGE, an Illinois municipal corporation, (the "*Village*") and SEAMUS KNOLLS, L.L.C., an Illinois limited liability company (the "*Owner*").

IN CONSIDERATION of the recitals and the mutual covenants and agreements set forth in this Agreement, the Village and the Owner agree as follows:

Section 1. Recitals

A. The Theatre Property, as defined in Subsection 2.A of this Agreement, is owned and controlled by the Owner.

B. The Theatre Property is improved with the La Grange Theatre building (the "*Theatre*").

C. The Theatre is located prominently in Downtown La Grange and is closely associated with the Downtown La Grange business community. The Theatre has historical and architectural significance. In particular, the East Façade of the Theatre is a widely recognized feature of Downtown La Grange.

D. The Theatre needs to be renovated to assure its long-term structural soundness and economic and market viability, including among other things extensive interior reconstruction and restoration.

E. As a community asset and an economic engine of the Village, the Theatre, if renovated in the manner contemplated by this Agreement, will stimulate business activity in Downtown La Grange and will continue to provide enhanced cultural and entertainment opportunities to residents of the Village and the surrounding area.

F. The Owner has spent approximately \$350,000 on renovation of the Theatre as of the Effective Date.

G. It is not economically feasible for the Owner to renovate the Theatre to an appropriate extent except with the assistance of the Village.

H. The Owner desires to complete the renovation of the Theatre, and to operate the Theatre as a movie theater after the completion of the proposed renovation for an indefinite period of time but at least 10 years, because the Owner recognizes the value of the Theatre's operation to the Village and its residents.

I. The Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety, and welfare of the Village and its inhabitants, to prevent the spread of blight, to encourage private development in order to enhance the local tax base, to increase employment, and to enter into contractual agreements with third parties for the purpose of achieving these goals.

J. The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.* (the "*TIF Act*"), to purchase property and to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act.

K. To stimulate and induce redevelopment under the TIF Act, the Village, after giving all notices required by law and after conducting all public hearings required by law, created the Downtown TIF District (the "*TIF District*") by adopting the following ordinances: Ordinance No. O-86-21 adopted May 27, 1986, titled "An Ordinance Adopting And Approving A Tax Increment Financing Redevelopment Plan And Redevelopment Project For The Village Of La Grange," and Ordinance No. O-86-22 adopted May 27, 1986, titled "An Ordinance Designating A Tax Increment Redevelopment Project Area For The Village Of La Grange," and Ordinance No. O-86-23 adopted May 27, 1986, titled "An Ordinance Adopting Tax Increment Financing."

L. The Village desires to purchase a property interest in the Theatre to further the goals of the TIF District's redevelopment plan and project, to serve the needs of the Village, and to produce increased tax revenues for the various taxing districts authorized to levy taxes within the TIF District, and the Village, to stimulate and induce renovation of the Theatre, has agreed to purchase an easement in the East Façade with tax increment revenues, all in accordance with the terms and provisions of the TIF Act and this Agreement.

M. The full value to the Village of the Façade Preservation Easement will be realized only after completion of the renovation project and operation of the Theatre as a movie theater as contemplated by this Agreement.

N. The Village and the Owner desire that the Theatre be renovated and used in compliance with this Agreement.

O. The Village and the Owner desire to enter into this Agreement to set forth their respective rights and responsibilities with respect to the renovation of the Theatre and the performance of the Project.

Section 2. Definitions; Rules of Construction

A. Definitions. Whenever used in this Agreement, the following terms have the following meanings unless a different meaning is required by the context:

"*Board of Trustees*": The President and Board of Trustees of the Village of La Grange.

"*Capital Reserve Account*": See Subsection 8.G of this Agreement.

"Completion of the Renovation": See Subsection 7.M of this Agreement.

"Director of Development": The Village's Director of Community Development.

"East Façade": All exterior surfaces and improvements on the entire east front of the Theatre, including among other things all walls, windows, doors, and marquees on that east front, as depicted in Exhibit A to this Agreement.

"Easement Repurchase Event": See Paragraph 4.E.1 of this Agreement

"Easement Repurchase Payment": See Paragraph 4.E.2 of this Agreement

"Effective Date": _____, 2008.

"Escrow Agent": The bank, title company, or similar entity that will administer the Renovation Account.

"Escrow Agreement": The agreement between the Village, the Owner, and the Escrowee establishing the Renovation Account as an escrow account for the Renovation.

"Façade Easement Closing": The closing of the sale of the Façade Preservation Easement by the Owner to the Village. See Section 4 of this Agreement.

"Façade Preservation Easement": An easement for the preservation of the East Façade, as described in greater detail in Section 4 of this Agreement.

"Final Renovation Budget": See Subsection 6.B of this Agreement.

"Final Renovation Documents": The Final Renovation Plans, Final Renovation Budget, and Final Renovation Schedule, collectively.

"Final Renovation Plans": See Subsection 6.A of this Agreement.

"Final Renovation Schedule": See Subsection 6.C of this Agreement.

"Finance Director": The Village's Finance Director.

"Force Majeure": Strikes, lockouts, acts of God, or other factors beyond a party's reasonable control and reasonable ability to remedy; except that Force Majeure does not include delays caused by weather conditions unless those conditions are unusually severe or abnormal in the Village considering the time of year.

"Historical Elements": The historical elements and features of the Theatre existing as of the Effective Date, including without limitation the domed ceiling of the Theatre, the painted murals on the ceiling of the Theatre, and the original stage (including existing trim) within the Theatre.

"Parties": The Village and the Owner.

“Project”: The Renovation of the Theatre and the operation of the Theatre Property as a Sub-First Run Theater, all as described in this Agreement.

“Renovation”: The construction of improvements to the Theatre Property, as contemplated by this Agreement and as described in the Final Renovation Documents.

“Renovation Account”: The escrow account established pursuant to the Escrow Agreement into which certain funds will be deposited, including the Village’s payment for the Façade Preservation Easement and funds from the Owner, and from which payments will be made for the costs of the Renovation. See Section 5 of this Agreement.

“Requirements of Law”: All applicable federal and State of Illinois laws and statutes, the Zoning Code, and the Village Code.

“Sub-First Run Theater”: [DEFINITION NEEDS REVISION A movie theater that receives, for showing, top box-office films that still are in circulation among first-run theaters, but before those films are released to DVD or other media or pay-per-view outlets.]

“Theatre Property”: The real property commonly known as [80] South La Grange Road within the Village and legally described in Exhibit B to this Agreement.

“Title Company”: Chicago Title Insurance Co. [insert address].

“Village Code”: The La Grange Code of Ordinances.

“Village Engineer”: The Village’s engineer, whether on-staff or consulting.

“Village Manager”: The La Grange Village Manager.

“Zoning Code”: The La Grange Zoning Code.

B. Rules of Construction.

1. Grammatical Usage and Construction. In construing this Agreement, feminine, or neuter pronouns are to be substituted for those masculine in form and vice versa, and plural terms are to be substituted for singular and singular for plural, in any place in which the context so requires.

2. Headings. The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

3. Calendar Days. Unless otherwise provided in this Agreement, any reference in this Agreement to “day” or “days” means calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

5-c.8

Section 3. Performance of the Project

A. Components of Project. The Project is comprised of the following components:

1. Sale to Village of Façade Preservation Easement. The sale by the Owner to the Village, and the purchase by the Village from the Owner, of a Façade Preservation Easement in the East Façade, as provided in Section 4 of this Agreement.

2. Establishment of Renovation Account. The establishment of the Renovation Account and the coordination of payments into and disbursements from the Renovation Account, as provided in Section 5 of this Agreement.

3. Preparation of Renovation Documents. The preparation of final plans, drawings, a budget, and a construction schedule for the Renovation, as provided in Section 6 of this Agreement.

4. Undertaking the Renovation. The Renovation of the Theatre by the Owner, as provided in Section 7 of this Agreement.

5. Operation of Sub-First Run Theater. The operation of the Theatre Property as a sub-first run theater, as provided in Section 8 of this Agreement.

B. Schedule. Except as expressly provided otherwise in this Agreement, the Parties must exercise due diligence to perform, or to cause to be performed, all components of the Project within the time periods and schedule deadlines set forth in this Agreement. The Parties will be allowed extensions of time beyond the time periods and schedule deadlines set forth in this Agreement only for unavoidable delay caused by Force Majeure.

C. Quality of Work. The Parties must provide, perform, and complete, or cause to be provided, performed, and completed, all components of the Project in a proper and workmanlike manner, consistent with the standards of professional practice and in full compliance with, and as required by or pursuant to, this Agreement.

Section 4. Façade Preservation Easement

Before any building permit is issued by the Village for work on the Renovation, the Owner will sell to the Village, and the Village will purchase from the Owner, the Façade Preservation Easement in the East Façade. The transaction will take place in accordance with the following provisions:

A. Title Commitment; Exceptions.

1. Title Commitment. The Village will obtain a title commitment (the "*Title Commitment*") from the Title Company for an ALTA 2006 Owner's Policy of Title Insurance (the "*Title Policy*") for the Theatre Property, at the Village's sole cost.

2. Village Disapproval and Permitted Exceptions. If any item on the Title Commitment is unsatisfactory to the Village, then the Village Manager, within 10

5-c.9

days after receipt of the Title Commitment (the "*Examination Period*"), must deliver to the Owner, in writing, all objections the Village has to anything contained or set forth in the Title Commitment (the "*Disapproval Notice*"). Any items not included in the Disapproval Notice will be deemed to be approved by the Village. All title exceptions that are approved or deemed approved by the Village will constitute permitted exceptions (the "*Permitted Exceptions*"). Notwithstanding the foregoing, the Permitted Exceptions may not include any mortgages of the East Façade.

3. Owner's Response to Village Objections. The Owner will have no obligation to cure the Village's objections but must negotiate in good faith with the Village about curing them and must reasonably assist Village efforts to cure them. The Owner may provide notice (the "*Response Notice*") to the Village Manager not later than five days after its receipt of any Disapproval Notice indicating whether, on or before the date of the Façade Easement Closing, the Owner will cure any objections or cause the Title Company to issue an endorsement insuring against such objection or matters at no cost or expense to the Owner. If the Owner does not deliver a Response Notice within the five-day period, then the Owner will be deemed, as of the fifth day, to have decided not to cure any of the Village's objections.

4. Village's Rights to Cure, Terminate. If the Owner has determined, or is deemed to have determined, that the Owner will not remove or correct, or cause the Title Company to issue an endorsement insuring against, any disapproved exception, then the Village may undertake to cure the exceptions, with the reasonable assistance of the Owner, or the Village may terminate this Agreement by written notice delivered to the Owner within 15 days after the Owner's determination. If the Owner does not receive a written termination of this Agreement within the 15-day period, then the Village will be deemed to have waived the objections and all exceptions will be deemed approved.

5. Gap Period. If, due to the affirmative act of the Owner, an exception to title or other title defect other than a Permitted Exception is added to the Title Commitment subsequent to the Effective Date of this Agreement, but prior to the date of the Façade Easement Closing (an "*Unpermitted Exception*"), then, prior to the date of the Façade Easement Closing, the Owner must cure any such Unpermitted Exception, the failure of which will constitute a default by the Owner under this Agreement.

B. Closing Conditions. The Façade Easement Closing is subject to all of the following conditions:

1. During the period of time from the Effective Date through the date of the Façade Easement Closing, the Owner must not mortgage or otherwise encumber any portion of the Theatre Property, except upon the prior express written consent of the Village.

2. Notwithstanding any provision of this Section 4 to the contrary, the Owner must cure exceptions to title to the Theatre Property (or, as to clause (ii) of this sentence below, cure or cause deletion from the Title Policy or affirmative title insurance over to the Village's reasonable satisfaction), regardless of whether raised in

a Disapproval Notice, relating to (i) liens and security interests securing any loan or guaranty created by, through or under the Owner, or obligations for any loan or guaranty created by through or under the Owner and (ii) any tax, judgment, mechanics' and other liens of a definite and ascertainable amount created by, through, or under the Owner (other than liens for ad valorem taxes and assessments not yet due and payable) or any other liens permitted by the Owner as evidenced by the Owner's execution of such lien instrument.

3. The Owner, within 15 days after receipt of a written demand therefor, must promptly discharge, remove, or otherwise dispose of any liens, claims, or demands that are filed or asserted against any portion of the Property during the period of time from the Effective Date of this Agreement through the date of the Façade Easement Closing. These activities will be solely at the Owner's expense.

4. The Owner must be the legal title owner of the entire Property on the date of the Façade Easement Closing.

C. Façade Easement Closing. If all obligations in Subsection A and B of this Section have been satisfied, then the Façade Easement Closing will take place on a date acceptable to the Parties. At the Façade Easement Closing, the Parties will (a) execute the Façade Preservation Easement, in substantially the form attached to this Agreement as Exhibit C and (b) execute and deliver to each other the documents necessary to consummate the Closing, including A GAP Undertaking, an ALTA Statement and other forms required by the Title Company. The Owner also must deliver to the Village an Affidavit of Title in customary form.

D. Easement Payment.

1. At the Façade Easement Closing, the Village will pay to the Owner the amount of \$1,000,000 as consideration for the Façade Preservation Easement (the "*Easement Payment*").

2. Immediately on receipt of the Easement Payment, the Owner must immediately deposit the entire Easement Payment into the Renovation Account, without reservation.

E. Repurchase of Easement.

1. Required Repurchase. The Owner must, and hereby covenants and agrees to, repurchase the Façade Preservation Easement from the Village on receipt by the Owner of a written notice from the Village of the occurrence of any of the following events and a demand for repurchase:

- a. Cessation of the operation of a movie theater on the Theatre Property; or
- b. Cessation of the operation of the Theatre as a movie theater of at least the status of a Sub-First Run Theater; except that the Village

5-C-11

may not deliver a demand for repurchase under this Paragraph 1.b at any time before 180 days after Completion of the Renovation; or

- c. Failure to achieve Completion of the Renovation in accordance with the Final Renovation Schedule; or
- d. Failure by the Owner to pay all ad valorem property taxes and assessments when due on the Theatre Property as required pursuant to the Requirements of Law.

Each of these events may be referred to as an "*Easement Repurchase Event*."

2. Repurchase Payment. If the Village gives notice to the Owner of an Easement Repurchase Event and a demand for repurchase, then the following must occur:

- a. The Owner must pay to the Village the amount of \$1,000,000 as consideration for the Façade Preservation Easement (the "*Easement Repurchase Payment*"). Any amount distributed to the Village from the Renovation Account pursuant to Paragraph 5.F.2.a of this Agreement will be credited toward the Easement Repurchase Payment. If the distribution from the Renovation Account does not amount to the Easement Repurchase Payment, then the Owner must use its own funds to complete the Easement Repurchase Payment.
- b. If the Owner fails to pay the Easement Repurchase Payment as required by this Paragraph 4.E.2, then the Village will have the right to place a lien on the Theatre Property for the unpaid portion of the Easement Repurchase Payment, in the manner provided by law. The rights and remedies provided in this Paragraph b are in addition to, and not a limitation on, any other rights and remedies otherwise available to the Village by this Agreement or at law or in equity.

Section 5. Renovation Account

A. Establishment. The Parties will establish the Renovation Account as follows:

1. Selection of Escrow Agent. The Village Manager and the Owner will designate an Escrow Agent in writing at least 30 days before the Façade Easement Closing, which Escrow Agent may be the Title Company.

2. Execution of Escrow Agreement. The Village, the Owner, and the Escrow Agent will enter into the Escrow Agreement on or before the date of the Façade Easement Closing.

5-c.12

B. Deposit of Façade Easement Payment. The Owner will deposit the entire Easement Payment into the Renovation Account, as provided in Subsection 4.D of this Agreement.

C. Additional Owner Deposit. Not later than the date of the Façade Easement Closing, the Owner must deposit an additional \$650,000 into the Renovation Account.

D. No Village Funds Required. Other than the making of the Easement Payment, the Village will never be required or obligated, at any time, to contribute money for the Renovation or the Project.

E. Disbursements from Renovation Account. The Escrow Agent will be governed by a set of standard escrow instructions substantially in the form attached to this Agreement as Exhibit D. All disbursements from the Renovation Account must be made in accordance with the Escrow Agreement and the Escrow Instructions, which will limit disbursements except when the following has occurred:

1. The Village Manager has submitted to the Escrow Agent a Certified Disbursement Request, in the manner set forth in Subsection 7.L of this Agreement; or

2. The Renovation Account is closed pursuant to Subsection 5.F of this Agreement.

F. Closure of Renovation Account.

1. Date of Closure. The Parties will close the Renovation Account on the earlier to occur of (a) Completion of the Renovation (see Subsection 7.M of this Agreement), (b) the termination of the Escrow Agreement, (c) the date on which any Easement Repurchase Event occurs, (d) the date of termination of this Agreement pursuant to Paragraph 17.C.3 of this Agreement, or (e) the date on which the Escrow Agent is directed by the Village pursuant to Paragraph 17.C.4.a.(i) of this Agreement to close the Renovation Account.

2. Distribution of Account Funds. At the time of closure of the Renovation Account, the Parties will direct the Escrow Agent to distribute all remaining funds within the Renovation Account as follows:

a. The Escrow Agent will pay to the Village an amount equal to the lesser of (i) all funds remaining within the Renovation Account and (ii) \$1,000,000.

b. If there are any funds remaining in the Renovation Account after distribution to the Village pursuant to Paragraph a above, then the Escrow Agent will pay all of those remaining funds to the Owner.

Section 6. Renovation Plans, Budget, and Schedule

Not later than _____, 200__, and before the Director of Development issues any building permit for the Renovation, the Owner must prepare and submit to the Village Manager (i) plans, a budget, and a schedule for the Renovation and (ii) a properly prepared and executed building permit application. The documents must be prepared as provided in this Section.

A. Renovation Plans.

1. Submittal. The Owner must prepare and submit final plans and specifications for the work. These Renovation plans must include, without limitation, each of the following:

- a. Reasonable detail regarding the items of work to be completed, including construction and finish materials;
- b. The general order in which the work will be completed; and
- c. Specific identification of all Historical Elements and a statement describing how the Renovation will affect each Historical Element, how each Historical Element will be protected during the Renovation, and how the Owner will restore each Historical Element following the Completion of the Renovation.

2. Village Manager Review. Within 30 days after receipt by the Village of the Renovation plans from the Owner, the Village Manager either will approve or will withhold approval of the plans as submitted. The Village Manager will not unreasonably withhold or delay his approval of plans that contain sufficient detail and that substantially conform to the preliminary plans and specifications attached as Exhibit E to this Agreement. If the Village Manager withholds his approval, then the Village Manager will advise the Owner in writing about the reasons for that withholding. The Owner must revise the plans as provided by the Village Manager. The Village Manager will approve the plans after they have been properly revised (the "*Final Renovation Plans*").

3. Amendments. All proposed amendments and adjustments to the approval Final Renovation Plans must be submitted to, and approved by, the Village Manager in accordance with Paragraph 6.A.2 of this Agreement; except that the Director of Development or the Village Engineer, for matters within their respective permitting authorities, may approve minor changes, site work, and field adjustments, in accordance with all applicable Village standards.

B. Renovation Budget.

1. Submittal. The Owner must prepare and submit a detailed final budget for the Renovation. The Renovation budget must include at least (a) an estimate of the total cost of the Renovation, based on the Renovation plans, (b) a line

item summary of the major components of the Renovation, and (c) a contingency reserve of \$165,000.

2. Village Manager Review. Within 30 days after receipt by the Village of a Renovation budget, the Village Manager either will approve or will withhold approval of the budget as submitted. The Village Manager will not unreasonably withhold or delay his approval of a budget that contains sufficient detail and includes costs that do not exceed \$1,650,000.00 or a higher amount if the Owner submits to the Village Manager financing commitments or other satisfactory evidence of the Owner's ability to pay that higher amount. If the Village Manager withholds his approval, then the Village will advise the Owner in writing about the reasons for that withholding. The Owner must revise the budget as provided by the Village Manager. The Village Manager will approve the budget after it has been properly revised (the "*Final Renovation Budget*").

3. Owner Responsibility for All Renovation Costs. The Owner will be fully responsible for all costs of the Renovation, and the Village has no responsibility to pay any Renovation costs.

C. Renovation Schedule.

1. Submittal. The Owner must prepare and submit a schedule for commencement and completion of the Renovation, including milestones or other achievement indicators. The Renovation schedule must provide that the Renovation will be undertaken continuously and diligently from commencement to completion.

2. Village Review. Within 30 days after receipt by the Village of a Renovation schedule, the Village Manager either will approve or will withhold approval of the schedule as submitted. The Village Manager will not unreasonably withhold or delay his approval. If the Village Manager withholds his approval, then the Village will advise the Owner in writing about the reasons for that withholding. The Owner must revise the schedule as provided by the Village Manager. The Village Manager will approve the schedule after it has been properly revised (the "*Final Renovation Schedule*").

Section 7. Undertaking the Renovation

A. Commencement of Renovation. Within 60 days after approval by the Village of all of the Final Renovation Documents, the Owner must obtain a building permit for the Renovation and commence the work on the Renovation, subject to reasonable delay due to Force Majeure. The Parties may extend the date for commencement for good cause. Any extension of the date for commencement beyond June 1, 2009, however, must be approved by the Board of Trustees.

B. Diligent Pursuit of Construction; Schedule.

1. The Owner and all of its contractors must pursue the Renovation diligently, continuously, and in accordance with the Final Renovation Schedule.

5-C.15

2. The Owner will be allowed extensions of any time established in the Final Renovation Schedule (a) if approved by the Village Manager in writing for good cause shown or (b) for delay caused by Force Majeure. To make a claim for an extension of time for delay caused by Force Majeure, the Owner must give notice within five days after any unavoidable delay commences and give notice again within five days after the delay ends. The notice must state the cause for the delay, the period or anticipated period of the delay, and the steps taken by the Owner to mitigate the effects of the delay. If the Owner fails to give a required notice then the Village Manager may disapprove any extension of time for that delay.

C. General Restrictions. Subject to any Village-approved particular terms for development, and except for minor alterations due to engineering and site work approved by the Director or the Village Engineer (for matters within their respective permitting authorities), the Renovation must conform to (1) the provisions of this Agreement, (2) the approved Final Renovation Plans, and (3) all other Requirements of Law.

D. Renovation Standards.

1. General Standards. All components of the Renovation must be constructed in compliance with the approved Final Renovation Plans. All work on the Renovation must be conducted in a good and workmanlike manner and with due dispatch. All materials used for the Renovation must be new and of first-rate quality, except as expressly provided in the approved Final Renovation Plans.

2. Village Inspections and Approvals. The Director of Development and the Village Engineer, or their designees, will have the full right, permission, and authority to inspect, and reject or approve, work on the Renovation at all times when work is being undertaken and other reasonable times.

3. Other Approvals. When the construction of any component of the Renovation requires the permission or approval of any regulatory agency, then the Owner must take all steps required to obtain the required permission or approval. No work requiring the permission or approval of any such agency may commence without that prior permission or approval.

E. Building Permits.

1. The Owner will not receive a permit for commencement of the Renovation prior to (a) the Façade Easement Closing, (b) funding of the Renovation Account as provided in Section 5 of this Agreement, and (c) approval by the Village of the Final Renovation Documents as provided in Section 6 of this Agreement.

2. The Owner may not undertake work on the Renovation without first having secured the proper permit or permits therefor from the Village.

3. The Village may withhold issuance of a building permit, or may suspend or revoke a previously-issued building permit, when the Owner is in violation of any material term of this Agreement.

5-c.16

F. Insurance. The Owner must provide to the Village, prior to issuance of any building permit for the Renovation, certificates and policies of insurance evidencing the minimum insurance coverage and limits set forth in Exhibit F to this Agreement. Those policies must be in forms, and from companies, acceptable to the Village. The insurance coverage and limits in Exhibit F are the minimum coverage and limits and are not to be construed in any way as a limitation on the Owner's duty to carry adequate insurance or on the Owner's liability for losses or damages under this Agreement.

G. Approval and Use of Contractors.

1. List of Contractors; Village Approval. Prior to commencement of any work on the Renovation, the Owner must provide to the Director of Development a list of all contractors and subcontractors proposed to be used by the Owner in the Renovation (a "*List of Contractors*"). Whenever an additional contractor or subcontractor may be used by the Owner throughout the course of the Renovation, the Owner must promptly submit to the Director an updated List of Contractors. Each entity on the List of Contractors must (i) register with the Director as required by the Village Code and (ii) be acceptable to, and approved in advance by, the Director. The Director's approval of any contractor or subcontractor will not relieve the Owner of full responsibility and liability for the provision, performance, and completion of the Renovation as required by this Agreement.

2. Required Terms. Each Owner's contract with a contractor must include the following terms:

- a. The Owner may take over and prosecute the work if the contractor fails to do so in a timely and proper manner;
- b. The contractor, and all work performed under the contract, must comply with all applicable provisions of this Agreement; and
- c. The contractor must include, in any contracts between that contractor and a subcontractor or supplier, terms substantially the same as those set forth in this Subsection G.

3. Removal of Personnel and Subcontractors. If any contractor, subcontractor, or supplier fails to perform the work in a manner consistent with commonly accepted professional practices, then the Owner, immediately after notice from the Director of Development, must remove and replace that contractor, subcontractor, or supplier. The Owner will have no claim for damages or for a delay or extension of any deadline set forth in the Final Renovation Schedule as a result of any such removal or replacement.

H. Damage to Public Property. The Owner must (i) maintain all streets, sidewalks, and other public property in and adjacent to the Theatre Property in a good and clean condition and free of hazards at all times during development of the Theatre Property, (ii) promptly clean all mud, dirt, or debris deposited on any street, sidewalk, or other public property in or adjacent to the Theatre Property by the Owner or any

5-2.17

agent of or contractor hired by, or on behalf of, the Owner, and (iii) repair any damage that may be caused by the activities of the Owner or any agent of or contractor hired by, or on behalf of, the Owner. If, within one hour after the Village gives the Owner notice to clean mud, dirt, or debris in compliance with this Subsection H, the Owner neglects or fails to clean or to undertake with due diligence to clean the affected public property, then the Village may clean the affected property, either with its own forces or with contract forces, and recover from the Owner a sum equal to the total cost incurred by the Village including without limitation administrative costs.

I. Parking. All construction-related vehicles, including passenger vehicles and construction equipment, must be parked in areas approved in advance by the Village.

J. Appointment of Village Consultant. The Village may appoint a consultant to represent the Village for all matters related to the Renovation of the Building. The Village's consultant will have the authority to exercise all of the rights of the Village pursuant to this Section 7.

K. Final Inspections and Approvals. When the Owner determines that a portion of the Renovation has been properly completed, the Owner may request of the Director of Development a final inspection and approval of that portion by the Village. If there is a specifically scheduled date for completion of that portion of the work, then the notice and request must be given sufficiently in advance to allow the Village time to inspect the work and to prepare a punch list of items requiring repair or correction and to allow the Owner time to make all required repairs and corrections before that date. The Owner must promptly make all necessary repairs and corrections as specified on the punch list. The Village will not be required to approve any portion of the Renovation until it has been fully and properly completed, including without limitation all punch list work for that portion.

L. Disbursement for Completed Renovation Work. Upon approval by the Village of any portion of the Renovation of the Building, the Owner will be entitled to a disbursement from the Renovation Account upon the occurrence of each of the following:

1. Disbursement Requests. The Owner, as a condition precedent to its right to receive a disbursement from the Renovation Account, must submit to the Finance Director an originally executed request for payment in the form provided by the Village and accompanied by such supporting data and documentation as may be required by this Agreement or by the Director (a "*Disbursement Request*"). The Director, by written notice to the Owner, may designate a specific day of each month on or before which Disbursement Requests must be submitted. Each Disbursement Request must include the following minimum data and documentation, all of which must be provided on forms supplied by, or otherwise acceptable to, the Director:

- a. The Owner's certification of the value of that portion of the Renovation that has been approved by the Village and for which payment is then requested, which value is to be determined pursuant to a schedule showing the value of each component part

of such portion of the Renovation, and the quantity of discrete units comprising such component part of the Renovation, in form and with substantiating data and documentation acceptable to the Finance Director (a "*Breakdown Schedule*").

- b. The Owner's certification that all prior disbursements have been properly applied to the payment or reimbursement of the costs with respect to which they were paid.
- c. An Owner's sworn statement.
- d. An Owner's partial or final waiver of lien.
- e. Sworn statements from each contractor.
- f. Waivers of lien from contractors, subcontractors, and suppliers.
- g. Such other receipts, releases, affidavits, certificates, and other evidence as may be necessary to establish, to the Finance Director's satisfaction, (i) the entitlement of the Owner and others being paid to the disbursement being requested and (ii) prior payment for all labor, equipment, materials, supplies, and other things covered by the Disbursement Request.

2. Village Review and Certification. Within 10 days after receipt by the Village of a Disbursement Request, the Village must either certify or reject the Disbursement Request in writing and in accordance with the following:

- a. The Village will have no obligation to certify a Disbursement Request that does not comply with the requirements set forth in Paragraph 1 of this Subsection L or with the following:
 - (i) The sum of the items listed in the Breakdown Schedule must equal the amount or amounts set forth for such items in the approved Final Renovation Budget.
 - (ii) The Breakdown Schedule may not provide for overpayment to the Owner on component parts of the Renovation to be performed first.
- b. If a Disbursement Request fully complies with the requirements of this Agreement, then the Finance Director must (i) certify the Disbursement Request (the "*Certified Disbursement Request*") and (ii) submit the Certified Disbursement Request to the Escrow Agent.

3. Disputes. The Owner must continue to diligently pursue the Renovation during any period in which the Owner disputes any rejection or request made by the Village pursuant to this Subsection 7.L.

M. Completion of the Renovation.

1. The Owner must notify the Director of Development in writing when it believes that all portions of the Renovation have been completed in accordance with the approved Final Renovation Plans (a "Notice of Completion").

2. Within 30 days after receipt of the Notice of Completion, the Director must either (a) certify that all portions of the Renovation has been completed in accordance with the approved Final Renovation Plans ("*Completion of the Renovation*") or (b) notify the Owner in writing of any portion of the renovation that has not been properly completed.

Section 8. Owner Covenants and Agreements on Use and Status of Theatre

A. Covenant of Use as Movie Theatre. The Owner hereby covenants and agrees that it will not use, and will not permit to be used, the Theatre or the Theatre Property for any principal use other than a movie theater. The Owner hereby covenants and agrees further that it will not undertake any renovations, alterations, or other changes to the Theatre or the Theatre Property that would change, threaten to change, or in any way impede the use of the Theatre as a movie theater.

B. Status as Sub-First Run Theater.

1. The Owner agrees that it will raise ticket prices, if necessary, and otherwise use its best efforts, diligently and expeditiously, to cause the Theatre to qualify at least as a Sub-First Run Theater. The Owner also agrees to use its best efforts to maintain the Theatre in all aspects of its operations and physical condition as necessary to keep that status or achieve first-run status.

2. Within 180 days after Completion of the Renovation, and on or before January 31 and June 30 every year thereafter, the Owner must submit to the Village Manager a written report regarding the status of the Theatre, including the extent to which the Theatre has achieved Sub-First Run Theater status and all actions undertaken by the Owner to secure Sub-First Run Theater status.

C. Notice of Cessation of Operations. The Owner must immediately deliver to the Village written notice of any cessation of the operation of the Theatre as a Sub-First Run Theater or as a movie theater, for any period of time exceeding seven consecutive days.

D. Live Theater. Notwithstanding anything in this Section 8 to the contrary, the Owner will be permitted to use the Theatre for live theater performances from time to time.

E. Community Uses. The Owner must provide reasonable opportunities for schools and civic organizations located within the Village to use space within the Theatre for local stage productions, variety shows, dancing and singing opportunities, and similar public and civic uses.

F. Compliance with Laws. The Owner may not use the Theatre Property except in compliance with this Agreement and with all applicable Requirements of Law, including without limitation the Zoning Code. The Village, at the Owner's request, may consider modifications or amendments to Requirements of Law within the Village's jurisdiction.

G. Future Maintenance and Improvements. The Owner has committed to make additional improvements to the Theatre in the future of a value of at least \$350,000. Future improvements must be made as follows:

1. Interior Improvements. At any time after Completion of the Renovation, the Owner may undertake maintenance or improvement of, or alteration to, the interior of the Theatre so long as that maintenance, improvement, or alteration does not violate any term of this Agreement or other Requirement of Law.

2. Exterior Improvements. The Owner covenants and agrees that, after the Completion of the Renovation, it will undertake the maintenance and improvement of the entire east exterior of the Theatre as necessary to preserve the east exterior in a condition of good repair.

3. Future Façade Improvements. The Parties acknowledge the Owner's desire to undertake a more-substantial restoration of the East Façade to provide for its long-term integrity and to restore some of its historical features. That restoration cannot be undertaken as part of this Agreement due to lack of sufficient funding. The Village will cooperate with the Owner when the Owner determines it is able to undertake the restoration, which will be undertaken in accordance with the terms of the Façade Preservation Easement.

4. Village Matching of Funds. When the Owner undertakes additional improvements to the Theatre, then Owner may petition the Village for matching payments by the Village for those improvements. The Village may provide matching funds or other financial support for any future improvements made pursuant to this Subsection 8.G, but will not be obligated to do so. If the Village determines to provide matching funds or other financial support for future improvements, then the Village may determine to impose an amusement tax or similar tax. The Owner will not object to the imposition of any such tax.

Section 9. Theatre Review Commission

The Village may create an advisory theatre review commission, comprised of the Village Manager, the Finance Director, and Theatre representatives, to advise the Board of Trustees on matters related to the Renovation and to review and monitor operation of the Theatre. The Owner will participate in, and will not object to, the creation and operation of any such theatre review commission.

Section 10. Waiver of Fees

The Village will, and does hereby agree to, waive all Village fees and charges for applications, inspections, permits, utility connections and taps, and similar matters.

Section 11. Books and Records

The Owner must keep, and cause all contractors that work on the Renovation to keep, accounts, books, and other records of billable charges and costs incurred in performing all components of the Renovation, in accordance with generally accepted accounting practices, consistently applied, and in such manner as to permit verification of all entries. The Owner must make all such material available for inspection by the Village at all reasonable times during this Agreement and for a period of three years after the date of Completion of the Project. Copies of such material must be furnished at the request, and sole expense, of the Village.

Section 12. Liability and Indemnity of Village

A. Village Reviews. The Owner acknowledges and agrees that the Village is not, and will not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Theatre Property or the Renovation, or the issuance of any approvals, permits, certificates, or acceptances for the development or use of the Theatre Property, and that the Village's review and approval of those plans and issuance of those approvals, permits, certificates, or acceptances does not, and will not, in any way, be deemed to insure the Owner, or any of its heirs, successors, assigns, tenants, and licensees, or any other person, against damage or injury of any kind at any time.

B. Village Procedures. The Owner acknowledges and agrees that all notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agrees not to challenge the Village's approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. Indemnity. The Owner agrees to, and does hereby, indemnify the Village and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys (collectively the "*Indemnified Parties*") from any and all claims that may be asserted at any time by any person or entity against any of the Indemnified Parties in connection with (1) the Village's review and approval of any plans for the Project, (2) the issuance of any approval, permit, certificate, or acceptance in connection with the Project, or (3) the development, construction, maintenance, or use of any portion of the Theatre Property.

D. Defense Expense. The Owner will, and does hereby agree to, pay all expenses, including without limitation legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 12.C above.

Section 13. Nature, Survival, and Transfer of Obligations

A. Binding on Owner. All obligations assumed by the Owner under this Agreement are binding on the Owner, on any and all of the Owner's successors and assigns, and on any and all successor legal or beneficial owners of record of all or any portion of the Theatre Property.

B. Notice to Successors. To assure that all successors, assigns, and successor owners have notice of this Agreement and the obligations created by it, the Owner must:

1. Funds for Recording Document. Deposit with the Village Clerk, at the time of execution of this Agreement, a sufficient sum, in current funds, to reimburse the Village for the actual cost of recording this Agreement against the Theatre Property with the Cook County Recorder of Deeds; and

2. Inclusion in Instruments of Conveyance. Incorporate, by reference, this Agreement into any and all instruments of sale, assignment, transfer, or other conveyance of any right or approval conferred or granted by the Village or this Agreement or any legal or beneficial interest in the Property.

C. Village Approval of Successor Owners.

1. No Transfer without Village Approval. Except for a Transfer (as that term is defined in this paragraph) to a Qualified Buyer (as that term is defined in Paragraph 4 of this subsection below), the Owner may not, and acknowledges that it does not have the right to, sell, assign, transfer, or otherwise convey any rights or approvals conferred or granted by the Village or this Agreement or any legal or beneficial interest in the Property (a "Transfer") without the prior, express, written approval of the Village. For purposes of this Agreement, a "Transfer" also includes, without limitation, the sale, assignment, transfer, or conveyance of any ownership interest in the corporate stock of the Owner to any entity that does not possess any ownership interest in the Owner as of the Effective Date of this Agreement.

2. Notice to Village of Proposed Transfer. The Owner must give notice to the Village of any proposed Transfer, including without limitation a proposed Transfer to a Qualified Buyer. The Village will have 60 days after receipt of such notice to approve or disapprove the proposed Transfer and such further time to which the Owner agrees (the "Notice Period"). During the Notice Period, the Owner must provide all information requested by the Village about the proposed transferee, including without limitation financial information and development and management experience sufficient for the Village to make an informed, reasoned determination regarding the qualifications of the proposed transferee to fulfill the obligations of this Agreement and to properly and successfully manage and operate the Project.

3. Approval or Disapproval. The Village must not unreasonably delay its decision whether to approve a proposed transferee. If the Village disapproves a proposed transferee, then the Village must state its reasons for disapproval. If the Village does not respond to the notice within the Notice Period, then the Village will be deemed to have approved the proposed Transfer.

4. Qualified Buyer. **[Owner to provide language for this definition]** For purposes of this Paragraph 13.C.4, a "Qualified Buyer" means a person or entity that (a) has not less than 10 years experience of successful management and operation of first-run or sub-first run theaters, (b) has delivered to the Village a statement of financial wherewithal to complete, maintain, and operate the Project, as

5-c.23

applicable, and (c) has delivered to the Village a binding commitment of funds for purchase from a reputable, locally or nationally recognized financial institution, bank, insurance company, pension fund, or other substantially similar institution, as may be requested by the Village in its sole and absolute discretion.

D. Owner Still Bound. Notwithstanding any Transfer, the Owner will remain fully liable for all of the Owner's obligations under this Agreement accruing prior to the effective date of any such Transfer and for the duty to indemnify the Village as provided in Subsection 13.C of this Agreement against all claims that accrue, or that are relate to any matter occurring, prior to the effective date of any such Transfer regardless of when any such claim may be asserted.

E. Assignment by Village. The Village may not assign this Agreement, in whole or in any part, or any of its rights or obligations under this Agreement, without the prior express written approval of the Owner, which approval must not be unreasonably withheld.

Section 14. Term; Binding Effect

The provisions of this Agreement will run with and bind the Theatre Property and the Theatre, and will inure to the benefit of, and be enforceable by, the Village, the Owner, and any of their respective legal representatives, heirs, grantees, successors, and assigns. If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then the affected privilege or right will continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States, or for any shorter period that may be required to sustain the validity of the affected privilege or right. Specifically, and without limitation of the foregoing, the obligations of the Village and the Owner under this Agreement will survive the Façade Easement Closing.

Section 15. Enforcement

A. General. A Party may enforce or compel the performance of this Agreement in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, except that the Owner agrees that it will not seek, and does not have the right under any circumstances to seek, to recover a judgment for monetary damages against the Village or any of its elected or appointed officials, officers, employees, agents, representatives, engineers, or attorneys on account of the negotiation, execution, or breach of this Agreement.

B. Injunctive Relief for Violations of Covenants. Specifically, but not in any way limiting the provisions of Subsection A above, the Village may seek a temporary restraining and temporary and permanent injunctive relief against the Owner for any violation or threatened violation of any covenant or agreement set forth in Section 8 of this Agreement.

5-c.24

C. Prevailing Party. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement pursuant to this Section 16, the prevailing party will be entitled to reimbursement from the other party of all costs and expenses, including without limitation reasonable attorneys' fees, incurred in connection with the judicial proceeding.

Section 16. Breach

A. Breaches by Owner. The following matters will constitute a breach of this Agreement by the Owner:

1. The failure of the Owner for a period of 15 days after written notice thereof to perform any covenant contained in this Agreement concerning the existence, structure, or financial condition of the Owner, except that if the default cannot be cured within said 15 days and the Owner, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

2. Failure of the Owner in the performance of any provision of this Agreement or to keep and perform any covenant, warranty, or obligation contained in this Agreement, except that if the default cannot be cured within said 15 days and the Owner, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

3. The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Owner in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Owner for any substantial part of the Property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order un-stayed and in effect for a period of 60 consecutive days.

4. The commencement by the Owner of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by the Owner to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Owner or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of the Owner generally to pay such entity's debts as such debts become due or the taking of action by the Owner in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

5. Failure to have funds to meet the Owner's obligations.

6. Abandonment by the Owner of the Renovation or the Project. Abandonment will be deemed to have occurred when work stops on the Theatre for more than 30 days for any reason other than Force Majeure.

7. Failure to achieve Completion of the Renovation in accordance with the Final Renovation Schedule.

8. Failure of the Owner to comply with the Requirements of Law in relation to any portion of the Project.

B. Breaches by Village. The following matters will constitute a breach of this Agreement by the Village:

1. Failure of the Village for a period of 15 days after written notice thereof to perform any covenant contained in this Agreement concerning the existence, structure, or financial condition of the Village, except that if the default cannot be cured within said 15 days and the Village, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

2. Failure of the Village in the performance of any provision of this Agreement or to keep and perform any covenant, warranty, or obligation contained in this Agreement, except that if the default cannot be cured within said 15 days and the Village, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

C. Remedies for Breach. In the case of a breach of under this Agreement:

1. General. The breaching Party, on written notice from the non-breaching Party, must take immediate action to cure or remedy such breach. If, in such case, any monetary breach is not cured, or if in the case of a non-monetary breach, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such breach is not cured or remedied within a reasonable time, but in no event more than 15 additional days unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such breach, including but not limited to proceedings to compel specific performance of the breaching Party's obligations under this Agreement.

2. Discontinuation of Enforcement Proceedings. If the Village has proceeded to enforce its rights under this Agreement and if those proceedings have been discontinued or abandoned for any reason, then, and in every such case, the Owner and the Village must be restored respectively to their several positions and rights hereunder, and all rights, remedies, and powers of the Owner and the Village will continue as though no such proceedings had been taken.

3. Termination by Village. In addition to those remedies available pursuant to Paragraph 1 above, the Village will have the right, but not the obligation, to terminate this Agreement, effective immediately, in the event of a breach by the Owner and after expiration of the 30-day cure period set forth in Paragraph 1 above.

4. Failure to Achieve Completion of the Renovation.
 - a. Upon the failure of the Owner to achieve Completion of the Renovation in accordance with the Final Renovation Schedule, the Village will have the right, but not the obligation, to pursue any one or both of the following remedies in addition to or in lieu of those remedies available pursuant to Paragraphs 1 and 3 above:
 - (i) The Village may direct the Escrow Agent to close the Renovation Account and to distribute the remaining funds within the Renovation Account pursuant to Subsection 5.F of this Agreement.
 - (ii) The Village may cause the Renovation to be completed in accordance with the Final Renovation Plans, and may charge the Owner for all costs and expenses, including legal and administrative costs, for such work. If the Owner fails to fully reimburse the Village for all costs and expenses incurred pursuant to this Paragraph 16.C.4.a.(ii) within 30 days after receipt of an invoice therefor, and the Renovation Account has no funds remaining in it or is otherwise unavailable to finance such work, then the Village will have the right to place a lien on the Theatre Property for all such costs and expenses in the manner provided by law.
 - b. The Owner acknowledges and agrees that, in the event that it fails to achieve Completion of the Renovation in accordance with the Final Renovation Schedule for any reason other than due to Force Majeure, the Owner must pay to the Village an amount equal to \$250,000 as liquidated damages, which payment will be required in addition to all other remedies available to the Village pursuant to this Subsection 16.C.

Section 17. General Provisions

A. Notice. Any notice or communication required or permitted to be given under this Agreement must be in writing and must be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic Internet mail ("*e-mail*").

Facsimile notices will be deemed valid only to the extent that they are actually received by the individual to whom addressed and followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below.

E-mail notices will be deemed valid only to the extent that they are opened by the recipient on a business day at the address set forth below and followed by delivery of

actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below.

Unless otherwise provided in this Agreement, notices will be deemed received after the first to occur of (a) the date of actual receipt, or (b) the date that is one business day after deposit with an overnight courier as evidenced by a receipt of deposit, or (c) the date that is three business days after deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Subsection 18.A, each party to this Agreement has the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address will be effective until actually received.

Notices and communications to the Village must be addressed to, and delivered at, the following address:

	<u>with a copy to:</u>
Village Manager	Mark E. Burkland
Village of La Grange	Holland & Knight LLP
53 South La Grange Road	131 South Dearborn Street, 30th Floor
P.O. Box 668	Chicago, Illinois 60603
La Grange, Illinois 60525	Telephone: (708) 578-6557
Telephone: (708) 579-2318	

Notices and communications to the Owner must be addressed to, and delivered at, the following address:

	<u>with a copy to:</u>
_____	_____
_____	_____
_____	_____
_____	_____

B. Time of the Essence. Time is of the essence in the performance of this Agreement.

C. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement are cumulative and are not exclusive of any other rights, remedies, and benefits allowed by law.

D. Non-Waiver. The Village is under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village to exercise at any time any right granted to the Village will not be deemed or construed to be a waiver of that right, nor will the failure void or affect the Village's right to enforce that right or any other right.

E. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement,

5-c.28

the consent, permission, authorization, approval, acknowledgement, or similar indication of assent will be in writing.

F. Governing Law. This Agreement will be governed by and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. Severability. It is hereby expressed to be the intent of the parties to this Agreement that should any provision, covenant, agreement, or portion of this Agreement or its application to any Person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any Person or property will not be impaired thereby, but the remaining provisions will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

H. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matters of this Agreement.

I. Interpretation. This Agreement will be construed without regard to the identity of the party who drafted the various provisions of this Agreement and as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result, any rule or construction that a document is to be construed against the drafting party is not applicable to this Agreement.

J. Exhibits. Exhibits A through F attached to this Agreement are, by this reference, incorporated into and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement will control except for Exhibit C, the Façade Preservation Easement, the terms of which will control in the event of any conflict with any text of this Agreement.

K. Amendments and Modifications. No amendment or modification to this Agreement will be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

L. Changes in Laws. Unless otherwise provided in this Agreement, any reference to the Requirements of Law will be deemed to include any modifications of, or amendments to, the Requirements of Law that may occur in the future.

M. Authority to Execute. The Village hereby warrants and represents to the Owner that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities. The Owner hereby warrants and represents to the Village (1) that it is the record and beneficial owner of fee simple title to the Property, (2) that no other person has any legal, beneficial, contractual, or security interest in the Property, (3) that it has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and to bind the Property as set forth in this Agreement, (4) that all legal actions needed to authorize the execution, delivery, and

performance of this Agreement have been taken, and (5) that neither the execution of this Agreement nor the performance of the obligations assumed by the Owner will (a) result in a breach or default under any agreement to which the Owner is a party or to which it or the Property is bound or (b) violate any statute, law, restriction, court order, or agreement to which the Owner or the Property is subject.

N. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person may be made, or will be valid, against the Village or the Owner.

O. Recording. The Village will record this Agreement against the Property, at the sole cost and expense of the Owner, with the Office of the Recorder of Cook County promptly following the full execution of this Agreement by the Parties.

P. Counterparts. This Agreement may be executed in counterparts, each of which will constitute an original document and together will constitute the same instrument.

IN WITNESS WHEREOF, the Village and the Owner have caused this Agreement to be approved and executed by their properly authorized representatives as of the Effective Date.

Village of La Grange

By: _____
Village President

Attest:

By: _____
Village Clerk

Seamus Knolls, L.L.C.

Signature: _____

Printed name: _____

Title: _____

Attest:

Signature: _____

Printed name: _____

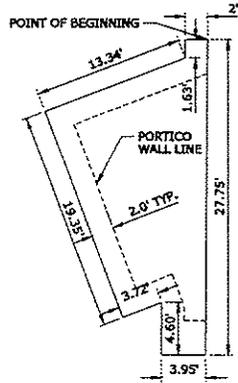
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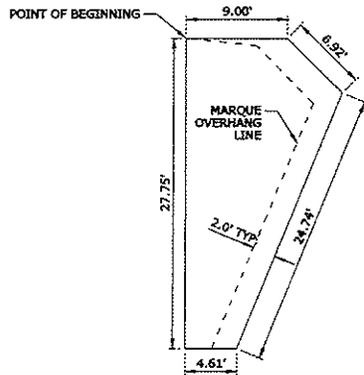
EXHIBIT A

DEPICTION AND LEGAL DESCRIPTION OF FAÇADE EASEMENT

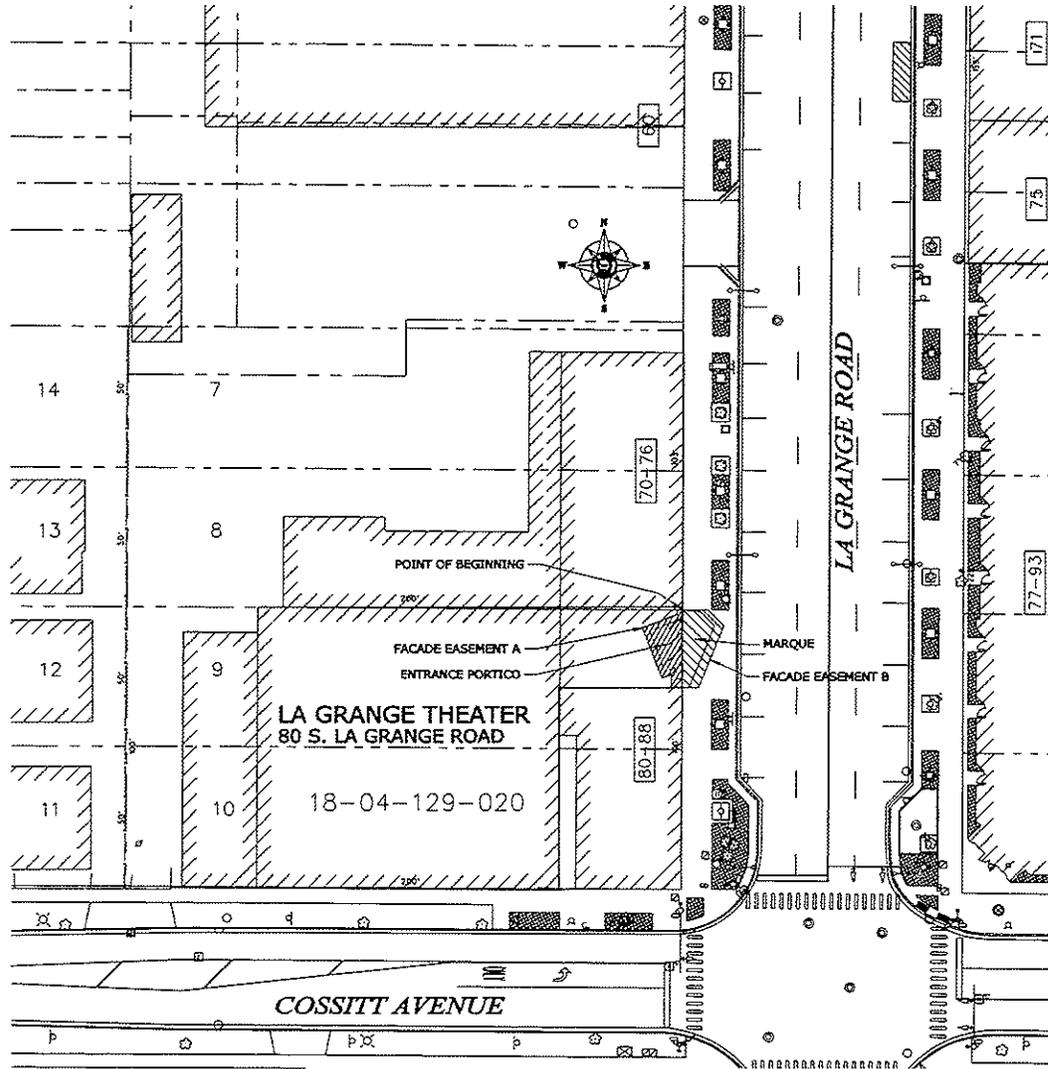
5-c.31



EASEMENT A DETAIL



EASEMENT B DETAIL



EASEMENT A FOR THE LA GRANGE THEATER FACADE IMPROVEMENTS

THAT PART OF LOT 9, IN BLOCK 22 OF LA GRANGE, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4, AND PART OF THE NORTHWEST 1/4, SOUTH OF THE C.B. & Q. RAILROAD IN SECTION 4, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED NOVEMBER 11, 1872 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 9 IN BLOCK 22, OF THE AFORESAID SUBDIVISION OF LA GRANGE, ALSO BEING THE WEST LINE OF LA GRANGE ROAD; THENCE SOUTH 00°00'00" WEST, (AN ASSUMED BEARING), A DISTANCE OF 27.75 FEET, ALONG THE EAST LINE OF THE AFORESAID BLOCK 22; THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 3.95 FEET; THENCE NORTH 00°00'00" WEST, A DISTANCE OF 4.60 FEET; THENCE SOUTH 68°45'29" WEST, A DISTANCE OF 3.72 FEET; THENCE NORTH 20°51'18" WEST, A DISTANCE OF 19.35 FEET; THENCE NORTH 69°08'42" EAST, A DISTANCE OF 15.48 FEET; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 1.63 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 2.00 FEET; TO THE WEST LINE OF LA GRANGE ROAD AND THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

AREA OF EASEMENT A = 250 SQUARE FEET OR 0.0057 ACRES

EASEMENT B FOR THE LA GRANGE THEATER FACADE IMPROVEMENTS

THAT PART OF LA GRANGE ROAD, IN BLOCK 22 OF LA GRANGE, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHWEST 1/4, AND PART OF THE NORTHWEST 1/4, SOUTH OF THE C.B. & Q. RAILROAD IN SECTION 4, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED NOVEMBER 11, 1872 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 9 IN BLOCK 22, OF THE AFORESAID SUBDIVISION OF LA GRANGE, ALSO BEING THE WEST LINE OF LA GRANGE ROAD; THENCE SOUTH 00°00'00" EAST, (AN ASSUMED BEARING), A DISTANCE OF 27.75 FEET, ALONG THE EAST LINE OF THE AFORESAID BLOCK 22; THENCE SOUTH 90°00'00" EAST, A DISTANCE OF 4.61 FEET; THENCE NORTH 22°30'00" EAST, A DISTANCE OF 24.74 FEET; THENCE NORTH 45°00'00" WEST, A DISTANCE OF 6.52 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 9.00 FEET; TO THE WEST LINE OF LA GRANGE ROAD AND THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

AREA OF EASEMENT B = 292 SQUARE FEET OR 0.0067 ACRES

SCALE	1" = 40'	SHEET	1
DRAWN BY	H&A		
CHECKED BY	H&A		
PROJECT NO	20061		
DATE	10/23/2006		

5-C.322

EXHIBIT B

LEGAL DESCRIPTION OF THEATER PROPERTY

The Real Property or its address is commonly known as 80-88 S. La Grange Road, La Grange, IL 60525. The Real Property tax identification number is 18-04-129-020.

LOTS 9 AND 10 IN BLOCK 22 IN LA GRANGE IN THE EAST ½ OF THE NORTHWEST ¼ (SOUTH OF THE CHICAGO BURLINGTON AND QUINCY RAILROAD) OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

5-c.33

EXHIBIT C

FACADE PRESERVATION EASEMENT

5-C.34

VILLAGE OF LA GRANGE

LA GRANGE THEATRE FAÇADE PRESERVATION EASEMENT

This Façade Preservation Easement (this "Grant of Easement") is made on the ____ day of _____ 200__ by SEAMUS KNOLLS, L.L.C., an Illinois limited liability company (the "Grantor") to the Village of La Grange, an Illinois municipal corporation (the "Grantee").

I. Recitals

A. The Grantee is an Illinois limited liability company and is the owner of the property and improvements commonly known as ____ South La Grange Road, La Grange, Illinois (the "Theatre Property"). The Theatre Property is legally described in Exhibit A attached to this Easement and is improved with the building known as the La Grange Theater Building (the "Theatre").

B. The Theatre is one of architectural significance, containing features described in greater detail in Exhibit B attached to this Grant of Easement. Further, the Theatre is located prominently in downtown La Grange and is closely associated with the downtown La Grange business community. In particular, the East Façade of the Theatre is a widely recognized feature of downtown La Grange.

C. The Grantor is undertaking a renovation of the Theatre, including among other work extensive interior reconstruction and restoration of features of the East Façade (the "Renovation"). The Grantor desires to preserve certain portions and features of the Theatre in their renovated state after the Renovation.

D. The grant of the easement as set forth in this Grant of Easement will assist in preserving a historical feature of downtown La Grange for the benefit and enjoyment of the residents of La Grange and the general public.

E. The Grantor desires to grant to the Grantee, and the Grantee desires to accept, an architectural façade preservation easement on the Theatre, exclusively for preservation purposes.

F. The term "East Façade" as used in this Grant of Easement means all exterior surfaces and improvements on the entire east front of the Theatre, including the walls, windows, doors, marquees, and all other features of that east front. A written description, copies of photographs of the East Façade, and plans for renovation of the East Façade are included in Exhibit B and are on file at the offices of the Grantee. It is the intent of the parties that the East Façade remain essentially unchanged after it is renovated as part of the Renovation. See Part III, Section E of this Grant of Easement.

II. Grant of Easement

In consideration of the provisions of this Grant of Easement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Grantor, the Grantor does hereby grant, give, convey, bargain, and sell to the Grantee an easement in gross, in perpetuity, in, on, and to the East Façade, for the purpose of preserving the East Façade and with the rights and terms set forth in this Grant of Easement.

III. Rights and Responsibilities

A. Without the express written consent of the Grantee, which consent may be withheld or conditioned in the sole and absolute discretion of the Grantee except as provided in Section C of this Part III, the Grantor will not undertake, and will not permit to be undertaken, any of the following:

1. Any demolition, partial demolition, destruction, dismantling, alteration, construction, remodeling, or painting of the East Façade.
2. Any placement or maintenance on the East Façade of any markers or signs, or of any other item that would in any material way alter or change the appearance of the East Façade.
3. The construction, erection, expansion, or placement of any improvement or item on the Theatre that would in any material way alter or change the appearance or visibility of the East Façade.
4. The alteration of the Theatre Property that would in any material way alter or change the appearance or visibility of the East Façade.
5. The consummation of any sale or transfer of any interest in the Theatre without first having given written notice to the Grantee of such sale or transfer and written notice of, and a copy of, this Grant of Easement to the buyer or transferee.

B. The Grantor and the Grantee acknowledge the Grantor's desire to undertake, after the completion of the Renovation, a more-substantial restoration of the East Façade to provide for its long-term integrity and to restore some of its historical features (the "Future Restoration"). The Grantor may not commence the Future Restoration except with approval of the Grantee and in compliance with the following procedure:

1. The Grantor must prepare and submit to the Grantee's Director of Community Development (the "Director") final plans and

specifications for the Future Restoration. These Future Restoration plans must include, without limitation (a) a detailed description of all items of work to be completed, (b) the order in which the work will be completed, and (c) the specific materials and techniques to be used in the work.

2. Within 30 days after receipt by the Grantee of the Future Restoration plans from the Grantor, the Grantee either will approve or will withhold approval of the plans as submitted. The Grantee will not unreasonably withhold or delay its approval of plans that contain sufficient detail and that provide for the Future Restoration in accordance with recognized principles of conservation and historical preservation. If the Grantee withholds its approval, then the Grantee will advise the Grantor in writing about the reasons for that withholding. The Grantor must revise the plans as provided by the Grantee. The Grantee will approve the plans after they have been properly revised (the "*Final Future Restoration Plans*").
3. All proposed amendments and adjustments to the approval Final Future Restoration Plans must be submitted to, and approved by, the Grantee in accordance with Paragraph 3.B.2 of this Grant of Easement; except that the Director may approve minor changes to the work that do not alter the Final Future Restoration Plans in any significant way or violate any principles of conservation or historical preservation.

C. If the Grantor requests approval by the Grantee of remodeling, renovation, cleaning, refinishing, construction of improvements, or repair to the Theatre other than the Future Restoration Plans that would be architecturally, aesthetically, and historically consistent with the East Façade, then the approval of the Grantee will not be unreasonably withheld.

D. With any request for approval of a matter relating to the East Façade, the Grantor will furnish the Grantee with all plans, specifications, materials samples, and documents related to the request.

E. If the East Façade suffers damage due to fire, storm, or other casualty, then the Grantee may make no repairs or reconstruction of any type to the East Façade, other than temporary emergency work to prevent further damage to the East Façade and to protect public safety, without the prior written approval of the work by the Grantee, which approval will not be unreasonably delayed or denied.

F. The Grantor will clean the East Façade periodically and will maintain the Theatre, including the East Façade, in good structural and surface repair and condition at all times.

G. The Grantor agrees that any rehabilitation work or new construction work on the East Façade must comply with the requirements of all applicable federal, State of Illinois, and local laws and regulations and must not be inconsistent with the historical or architectural character of the East Façade.

H. Within 60 days after completion of the Renovation and issuance by the Grantee of a certificate of occupancy for the renovated Theatre, the Grantor will execute an amendment to this Grant of Easement (the "*Amendment*") stating that the Renovation is complete and including (1) a detailed written statement describing the features of the renovated East Façade and (2) photographs of the renovated East Façade. The renovated East Façade as depicted in the Amendment will be the "*Approved Façade*," and in case of any ambiguity or question regarding the state of the East Façade that is being preserved by this Grant of Easement, the Approved Façade as defined by the materials in the Amendment will control. The Amendment will be recorded with the Cook County Recorder of Deeds.

I. The Grantor must maintain or cause to be maintained replacement cost insurance on the Theatre against loss from the perils commonly insured under standard fire and extended coverage policies. The Grantor also must maintain or cause to be maintained comprehensive liability insurance against claims for personal injury, death, and property damage in at least such amounts as would normally be carried on a property such as the Theatre. The policy or policies must name the Grantee as an additional insured and must provide liability coverage in an amount not less than \$____,000,000. Each policy or certificate must provide for reasonable prior written notice of cancellation by the insurer to the Grantee.

IV. Rights in Grantee Related to Enforcement

The Grantee, to ensure the effective enforcement of this Grant of Easement, has, and the Grantor hereby grants to the Grantee, the following rights:

1. To enter into and upon, and inspect, the Theatre Property, the Theatre, and the East Façade with reasonable frequency, at reasonable times, and with reasonable prior notice.
2. To place a marker on the East Façade providing historical information and/or indicating the Grantee's ownership of an easement, and to keep that marker clean and visible from the street.
3. In the event of a violation of this Grant of Easement and upon reasonable notice to the Grantor:

- (a) to institute legal proceedings to enjoin that violation by temporary and/or permanent injunction;
 - (b) to require the restoration of the Theatre, the East Façade, or other improvements on the Theatre Property to its prior condition;
 - (c) to collect damages and to avail itself of all other legal and equitable remedies; and
 - (d) to enter upon the Theatre Property and improvements thereon, to correct such violation, and to hold Grantor responsible for the costs of the correction.
4. To be reimbursed by the Grantor for all reasonable costs and attorneys fees incurred by the Grantee as a result of a violation of this Grant of Easement or in connection with legal proceedings as aforesaid.
 5. To defend the validity and/or the enforceability of this Grant of Easement in any action brought by or on behalf of the Grantor or the Grantor's successors in interest, and if the Grantee should prevail in its defense, or if the action is otherwise resolved such that the easement remains valid, to be reimbursed by the Grantor or the Grantor's successors in interest for all costs and attorneys fees in connection with the action.
 6. To place a lien (an "*Enforcement Lien*") against the Theatre Property to secure payment of any monetary obligations of the Grantor to the Grantee arising from the provisions of this Grant of Easement, except that any such Enforcement Lien securing the Grantee will be junior to the lien of any existing or future mortgagee or holder of a deed of trust on the Theatre Property.

V. General Provisions

A. This Grant of Easement and the obligations it imposes on the Grantor are binding not only on the Grantor but also on Grantor's successors, heirs, and assigns and all other successors in interest to the Grantor, and will continue as a servitude running in perpetuity with the land. The Grantor and Grantee understand that the Grantor (and any other person bound by the Grantor's obligations) will have no liability under this Grant of Easement with respect to actions or omissions that occur after the Grantor (or such other person) no longer has any legal or beneficial interest in the Theatre Property. This Grant of Easement will survive any termination of the Grantor's existence. The rights of the Grantee under this instrument run for the benefit of, and may be exercised by,

the Grantee's successors and assigns, or by the Grantee's designees duly authorized by the Grantee. In any legal proceeding involving the enforcement or validity of this Grant of Easement, the Grantor consents to the jurisdiction of the courts of the State of Illinois and waives all rights to a jury trial.

B. The Grantee, with the consent of the Grantor which may not be unreasonably delayed or withheld, may transfer, assign, or otherwise convey its rights under this Grant of Easement to any agency of the State of Illinois or to a not-for-profit corporation or trust whose primary purposes include the preservation of buildings of historical, architectural, or cultural significance. The Grantor must deliver its consent or denial of consent, including a statement of reasons for the denial, to the Grantee with seven days after receipt of the Grantee's written request for that consent. If the Grantor fails to deliver its consent or denial of consent with that seven-day period, then consent will be deemed to have been given by the Grantee.

C. Nothing in this Grant of Easement may be construed to limit the Grantee's right to give its consent to requests of the Grantor or limit the Grantee's right to abandon some or all of its rights under this Grant of Easement.

D. This Grant of Easement will be recorded by the Grantee with the Cook County Recorder of Deeds.

IN WITNESS WHEREOF, the Grantor has executed this Grant of Easement on the date first written above.

Seamus Knolls, L.L.C.

By: _____

Its: _____

Accepted:

Village of La Grange

By: _____, Village President

Date: _____, 200__

Subscribed to and sworn to before me by the Grantee
this ____ day of _____ 200__.

Notary Public

My Commission Expires: _____

5-C.40

Standard Lender Subordination and Acknowledgment

The Theatre Property that is the subject of the foregoing Grant of Easement currently is encumbered by [insert encumbrance] securing [insert type of instrument] payable to [insert lender] (the "Lender"). The Lender hereby subordinates its rights in the Theatre Property to the right of the Grantee and its successors or assigns to enforce the conservation purposes of this easement in perpetuity, and joins in the execution of this Grant of Easement for the sole and limited purpose of so subordinating its interest.

IN WITNESS WHEREOF, the Lender has on this ____ day of _____ 200__, caused these presents to be signed by _____ [print name], its _____ [title of officer], and attested by its _____ [title of attesting officer e.g., corporate secretary] and its corporate seal to be affixed and hereby appoints _____ its true and lawful attorney in fact to acknowledge and deliver these presents as its act and deed.

_____, Lender

By: _____

Its: _____

Attest:

By: _____

Its: _____

[CORPORATE SEAL]

5-C.41

State of Illinois)
) SS
County of Cook)

I, _____, a notary public in and for the County of Cook do hereby certify that _____, who is personally known to me as _____ in the foregoing Grant of Easement, and _____, who is personally know to me as _____ in said Grant of Easement, personally appeared before me this day and acknowledged that they signed and delivered said Grant of Easement as their own free and voluntary acts and as the free and voluntary act of _____, for the uses and purposes set forth therein.

Given under my hand and official seal this ____ day of _____ 200__.

Notary Public

My Commission Expires: _____

[SEAL]

5626646_v3

5-C.42

EXHIBIT D

ESCROW INSTRUCTIONS

5-C.43

EXHIBIT E

**LA GRANGE THEATER PRELIMINARY PLANS,
PRELIMINARY PROJECT SCOPE AND
PRELIMINARY PROJECT BUDGET
REVISED 10-13-08**

5-C.44

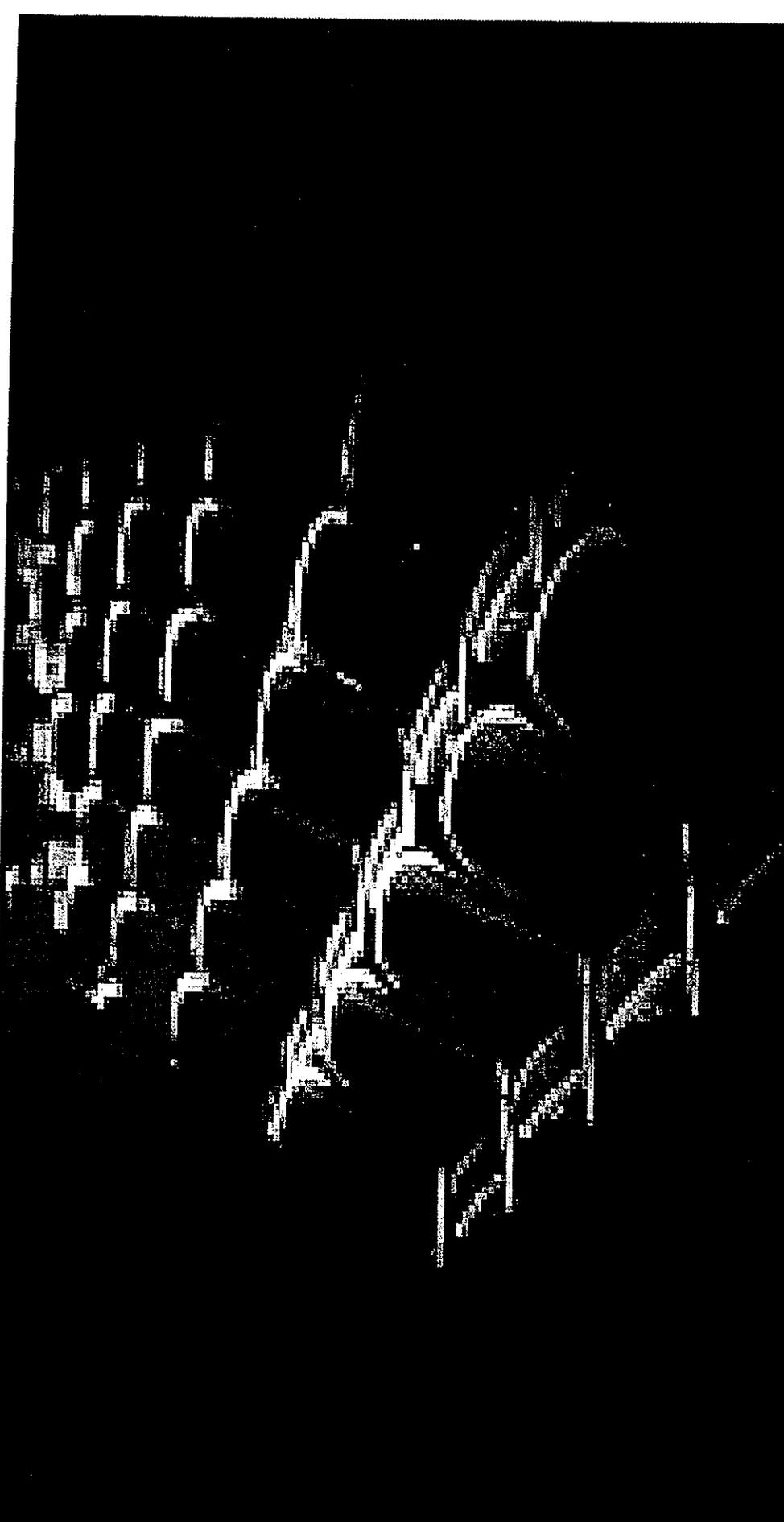
LA GRANGE THEATER

RENOVATION PROJECT

OWNER'S BUDGET SUMMARY

	DESCRIPTION	ORIGINAL BUDGET	8/25/08 BUDGET	10/13/08 BUDGET	%	DIFFERENCE FROM PREVIOUS	COMMENTS
INFRASTRUCTURE							
	BUILDING SYSTEMS & UTILITIES	93,632	90,000	156,282	5.90%	66,282	ADD 4" WATER SERVICE IN LIEU OF 3" TO ACCOMMODATE BASEMENT FIRE SPRINKLER SYSTEM; INCREASE ESTIMATED COMED FEES FOR SERVICE WORK; INCREASE ESTIMATED COSTS FOR SERVICE WORK; ADD INSPECTION OF EXISTING SANITARY SEWER.
	FIRE PROTECTION SYSTEMS	107,187	110,000	123,220	4.65%	13,220	ADD BASEMENT FIRE SPRINKLER SYSTEM; ADD ADDITIONAL FIRE/SMOKE DETECTION AT PLATFORM ABOVE THEATER #2.
	ADA WASHROOMS	381,994	380,000	171,706	6.49%	-208,294	DELETE FRONT WOMEN'S WASHROOM; DELETE MEN'S FRONT WASHROOM; NOTE - REAR MEN'S AND WOMEN'S WASHROOM REMAIN.
	MARQUEE (VERTICAL SIGN), VERTICAL SIGN PEDIMENT AND FRONT CANOPY	BELOW	100,000	211,794	8.00%	111,794	CORRECT ALLOCATION BETWEEN MARQUEE LINE ITEM AND FAÇADE LINE ITEM; DELETED REWORK FRONT CANOPY - LIGHTING AND CEILING WORK REMAINS.
	FAÇADE, ROOF AND OTHER EXTERIOR	570,002	470,000	372,234	14.06%	-97,766	CORRECT ALLOCATION BETWEEN MARQUEE LINE ITEM AND FAÇADE LINE ITEM; ADD ADDITIONAL ROOF WORK; DELETED SOME PARAPET WORK AND ADDED FAÇADE WORK AFTER ENGINEERS REVIEW; DELETED REAR CANOPY.
	EXITING	408,176	400,000	250,342	9.46%	-149,658	MAIN LOBBY EXITING REMAIN AS IS - SO LOBBY SECONDARY EXIT WORK HAS BEEN DELETED; DELETE SECONDARY EXIT OUT OF THE BASEMENT; DELETE REMOVAL OF PLATFORM ABOVE THEATER #2; ADDED NEW LOBBY DOORS AT THEATER'S #1, 3 & 4.
BUSINESS-RELATED							
	PROJECTION EQUIPMENT	70,000	70,000	70,000	2.64%	0	
	MAIN PROJECTION ROOM	39,342	40,000	40,079	1.51%	79	
	AUDITORIUM 1	225,053	225,000	248,011	9.37%	23,011	ADD HVAC EQUIPMENT AND DUCTWORK
	AUDITORIUM 2 (PHASE 1 WORK - COMPLETED)	110,000	110,000	110,000	4.15%	0	
	AUDITORIUM 3 (PHASE 1 WORK - COMPLETED)	120,000	120,000	120,000	4.53%	0	
	AUDITORIUM 4 (PHASE 1 WORK - COMPLETED)	120,000	120,000	120,000	4.53%	0	
	COMMUNITY ROOM	75,908	75,000	74,779	2.82%	-221	
	CONCESSION	195,624	200,000	110,761	4.18%	-89,239	DELETE REAR CONCESSION - FRONT CONCESSION WORK REMAINS
	LOBBY & TICKET BOOTH	200,874	225,000	225,484	8.52%	484	
	DRIVEWAY/ALLEY	15,000	15,000	0	0.00%	-15,000	DELETE ALLEY WORK
	LOST REVENUE/OPPORTUNITY COST	80,000	80,000	80,000	3.02%	0	
	DRINKING FOUNTAIN AND JANITOR CLOSET	0	0	13,000	0.49%	13,000	
	CONTINGENCY	375,000	300,000	150,000	5.67%	-150,000	
	SUBTOTAL:	3,187,792	3,130,000	2,647,692	100.00%	-482,308	
	PHASE I COSTS (COMPLETE)	-350,000	-350,000	-350,000			
	GRAND TOTAL:	2,837,792	2,780,000	2,297,692			

5-C.45



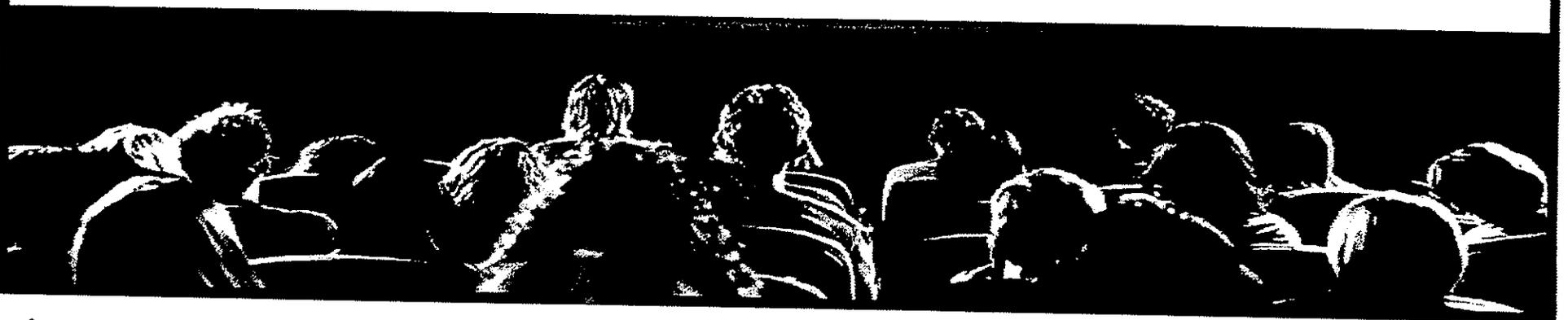
**Proposal to the Village of La Grange
La Grange Theatre
August 25, 2008**

57-4-46

Scope of Project Summary

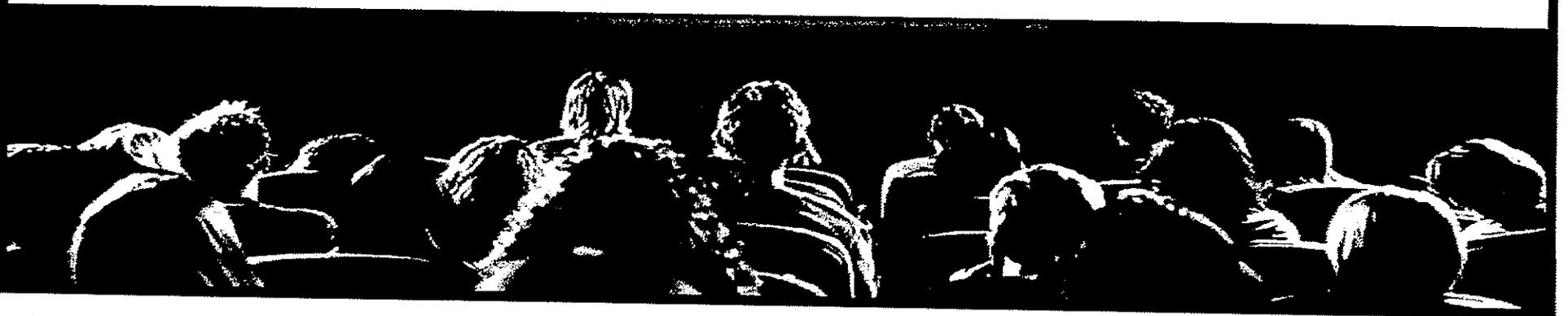
Business-Related

1. Projection Equipment, Furniture, POS, Office Equipment
2. Projection Room
3. Auditorium Seats, Décor, Lighting, Screens
4. Community Room
5. Concessions
6. Lobby & Ticket Booth

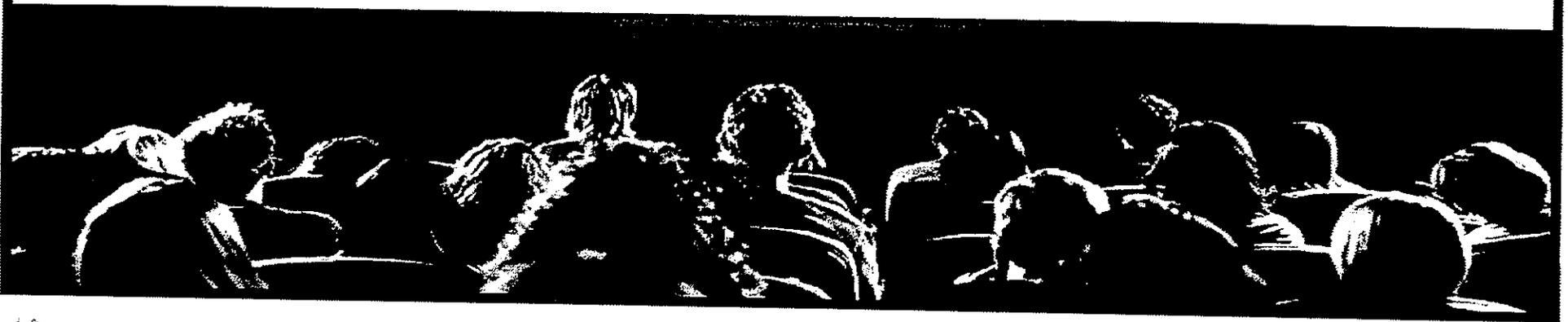


Business Related
PROJECTION EQUIPMENT & ROOM

- **New Digital Processors for Projectors**
- **New Surround Sound Processors**
- **New Speakers**
- **New Screens**
- **New Ventilation for Projectors**

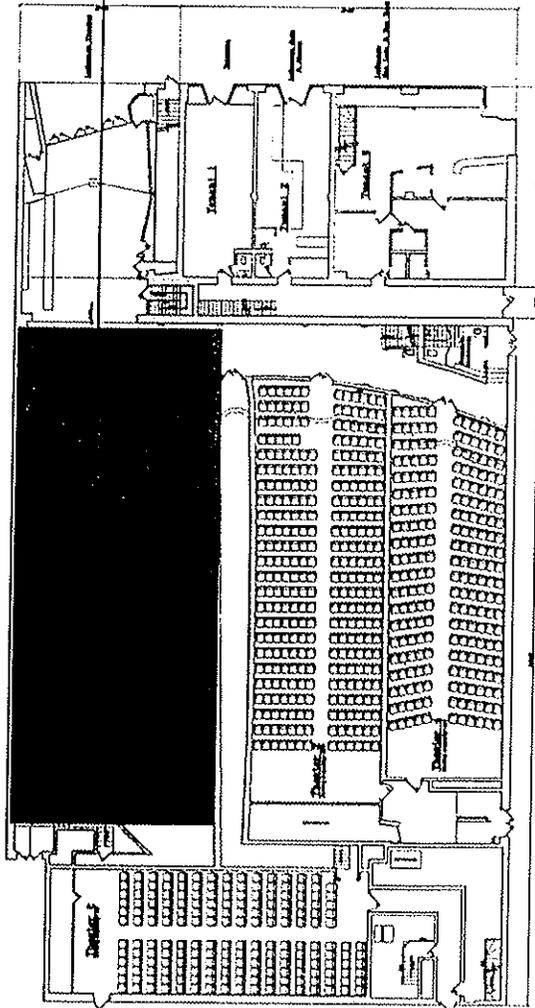


Auditoriums

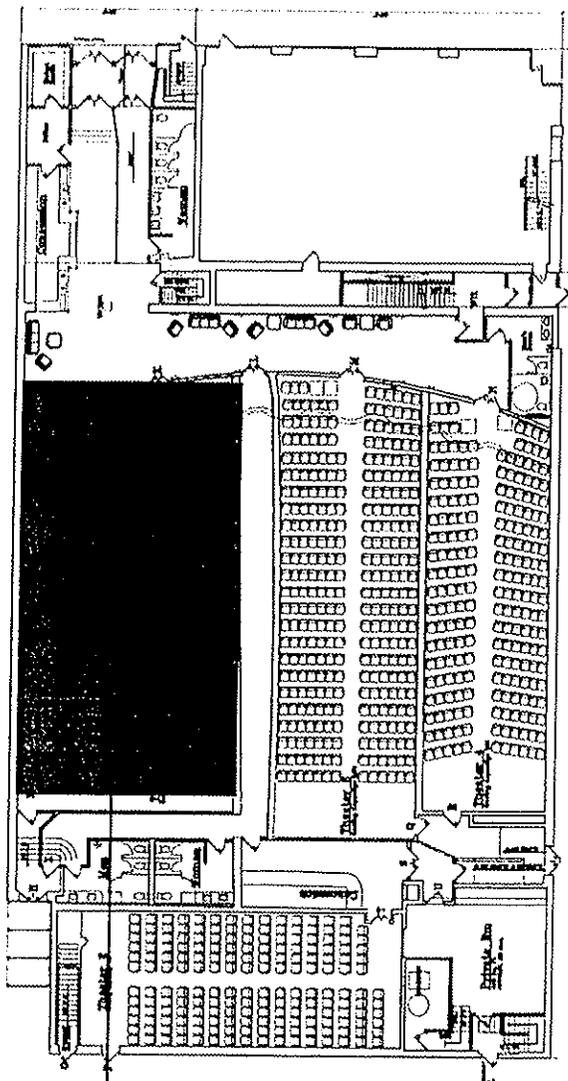


85-649

PROPOSED Auditorium I



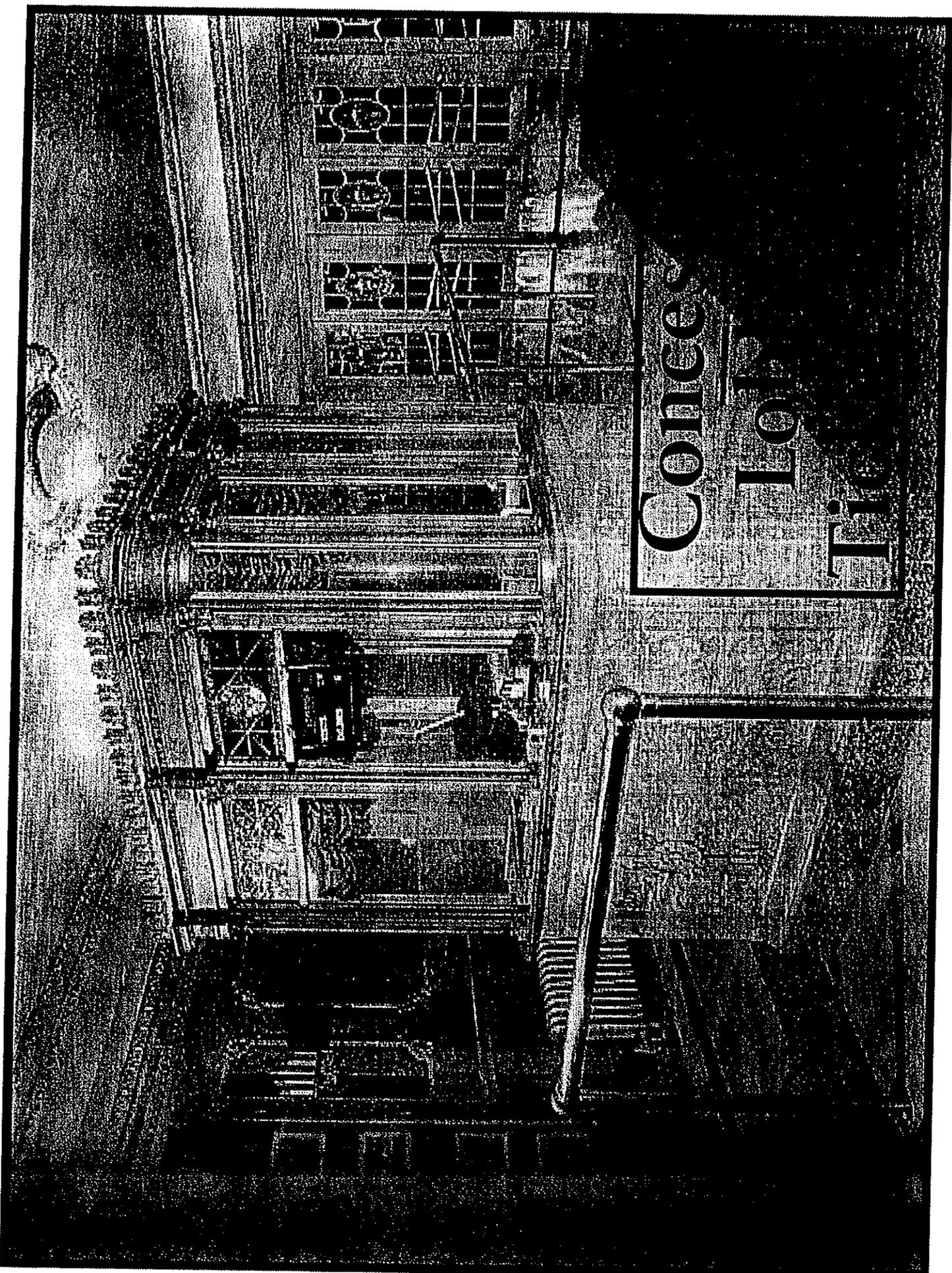
**Existing
Curved Wall**



Proposed
-Remove Curved Wall
-New Seat Configuration
-New Screen 70% larger

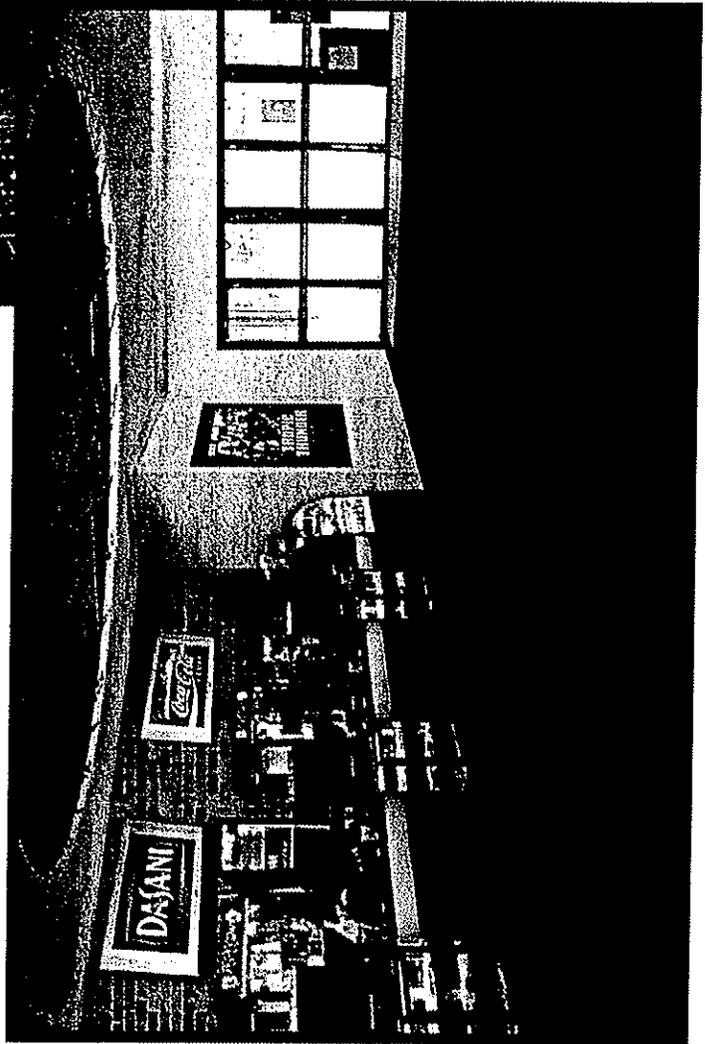
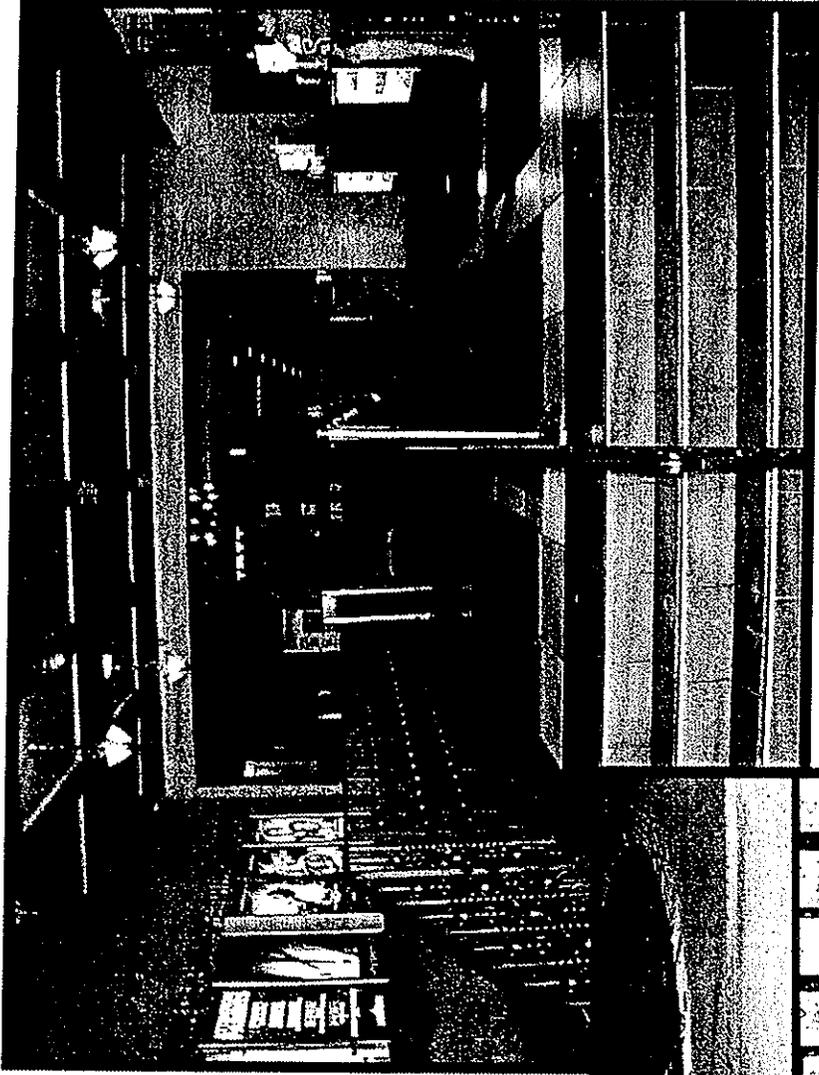
5-5-50

Concey Lok Ti



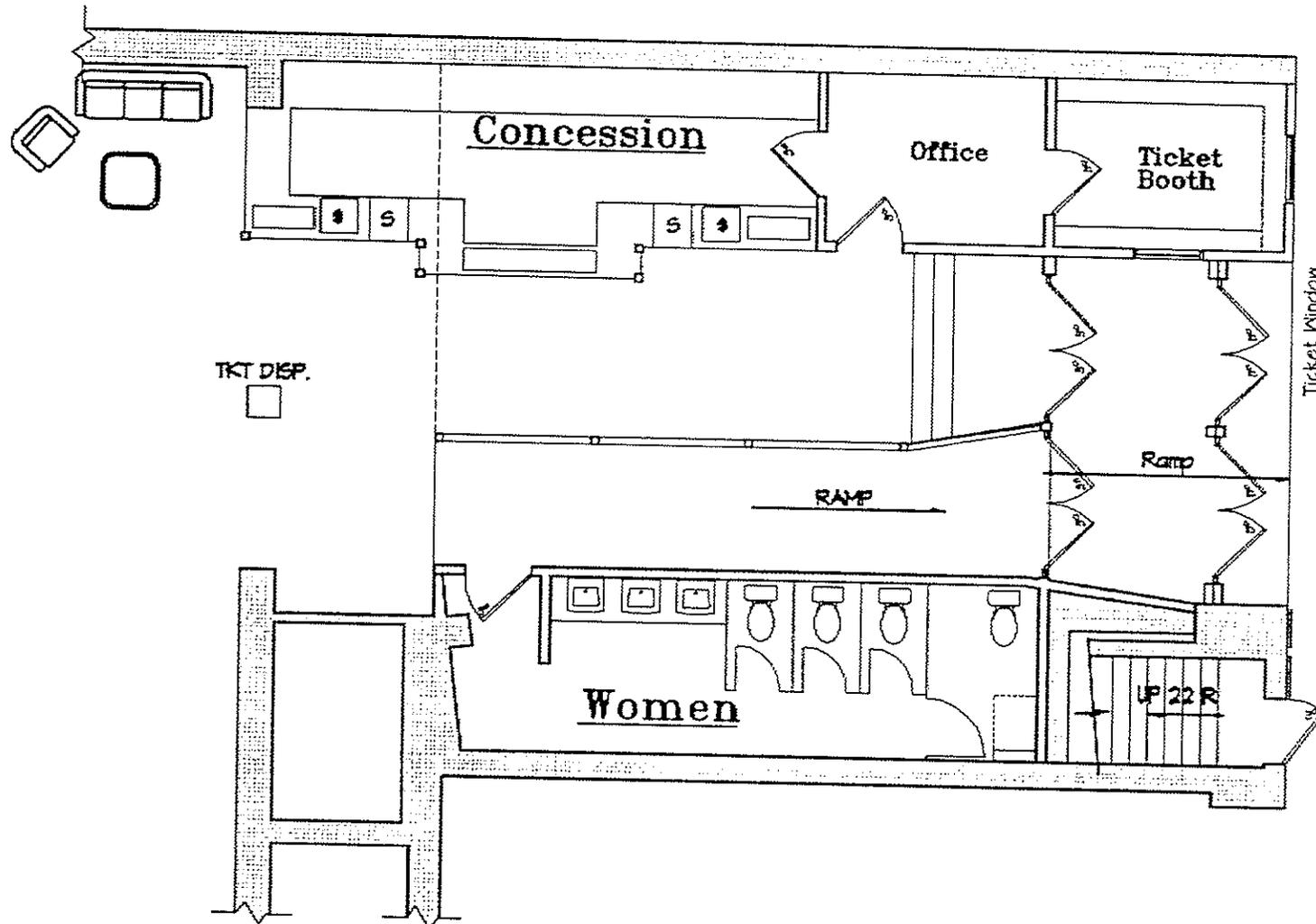
35-551

PROPOSED Concession Concepts



5-7-52

PROPOSED Concession Area



57 53

Concession, Lobby & Ticket Booth

- New Counters
- New Equipment & Ventilation
- New Traffic Pattern and ADA Ramp
- New Displays and Millwork
- Rejuvenate Historical Appearance
- New Flooring and Lighting
- New Entry Doors and Vestibule
- Increased Security with integrated Office, Concessions, Ticket Booth and Security System
- Lobby Seating
- All Work to Meet Current Building, Plumbing, Electrical and Health Codes



Scope of Project Summary

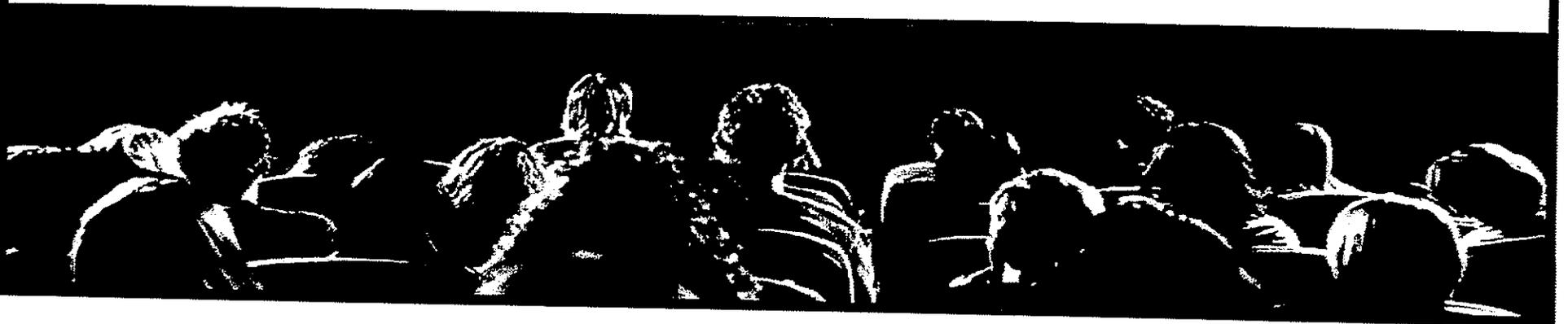
Infrastructure & Code Compliance

1. Building Systems & Utilities
2. Fire Protection System
3. ADA Compliant Bathrooms
4. Marquee Restoration
5. Façade, Roof and Other Exterior
6. Exiting



Infrastructure & Code Compliance
BUILDING SYSTEMS & UTILITIES

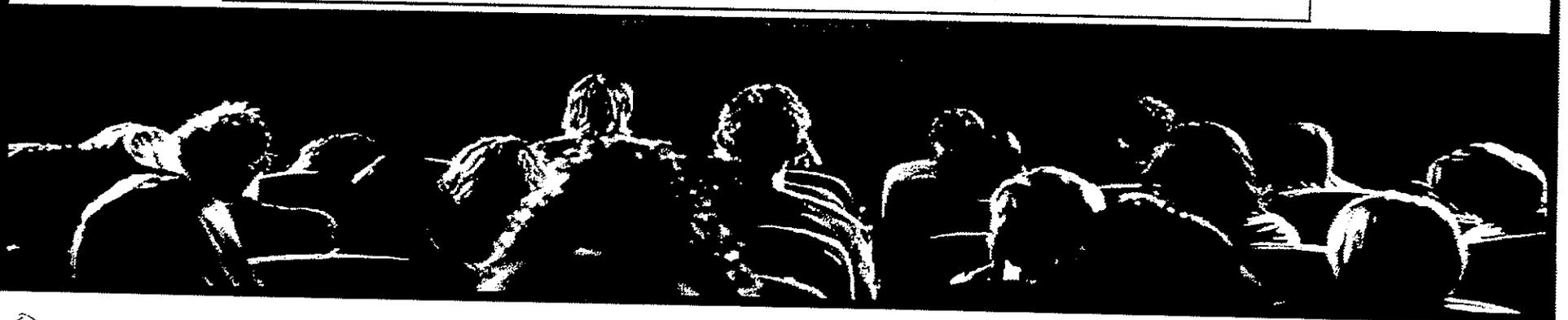
- **Electrical Service & Distribution**
- **Plumbing**
- **Sewer & Water**
- **Heating, Ventilation & Air Conditioning**



Infrastructure & Code Compliance **FIRE PROTECTION SYSTEM**

- **Fire Alarm System**
- **Pull Boxes**
- **Smoke Detectors**
- **All Directly Connected to Fire Station**
- **Required by New Code**

Sprinkler System – Not Required by Code
Optional Protection of Physical Property
Cost Range \$10,000 - \$670,000

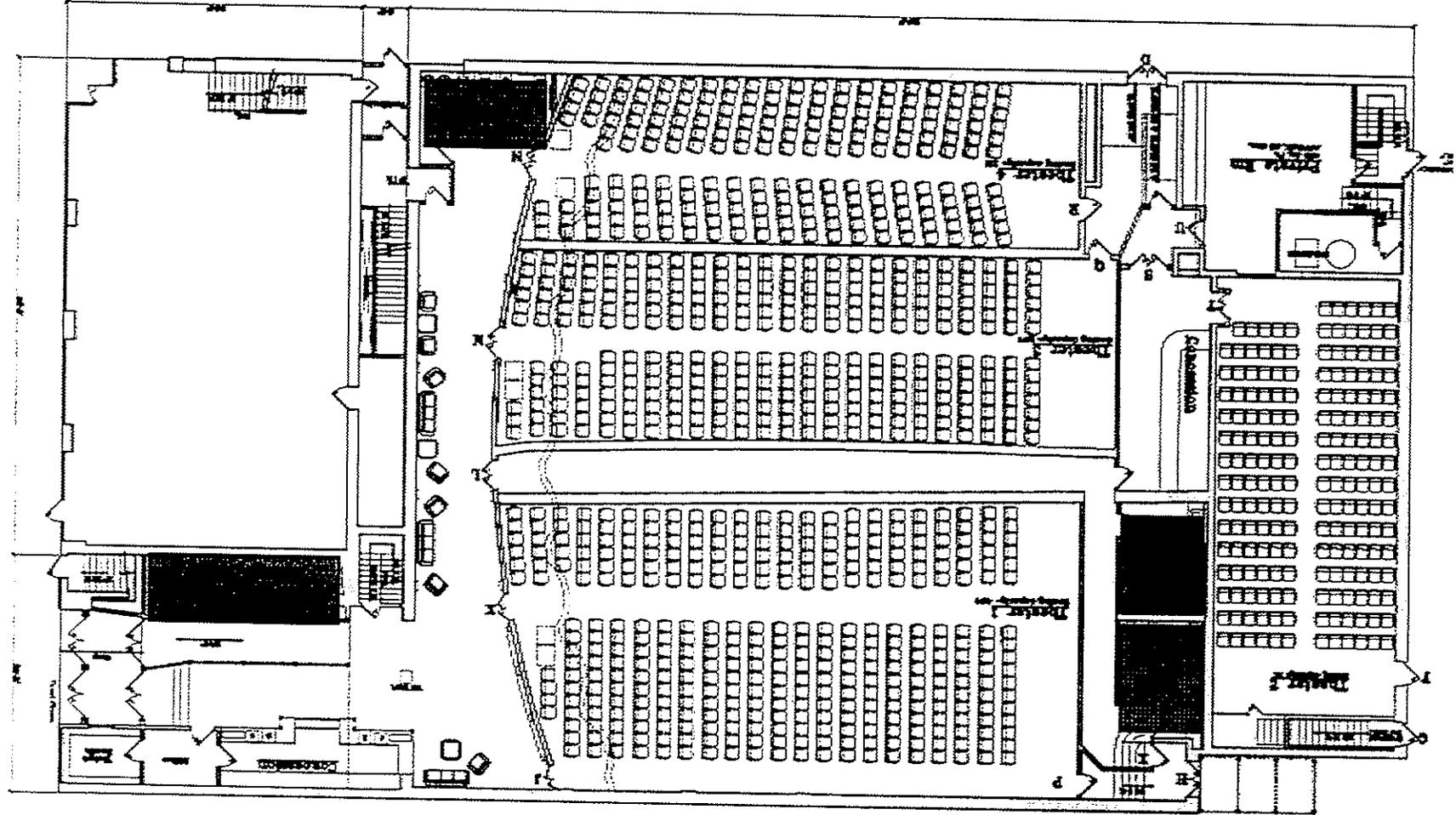


ADA Compliant Bathrooms



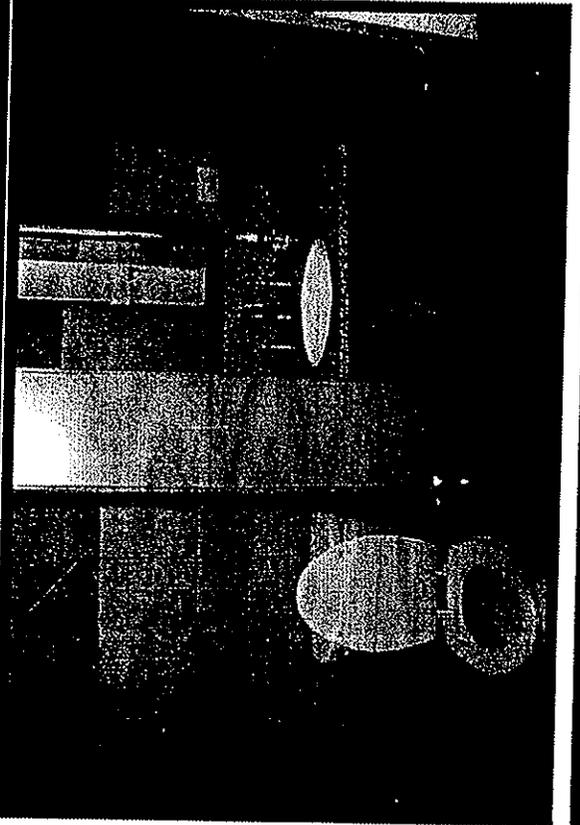
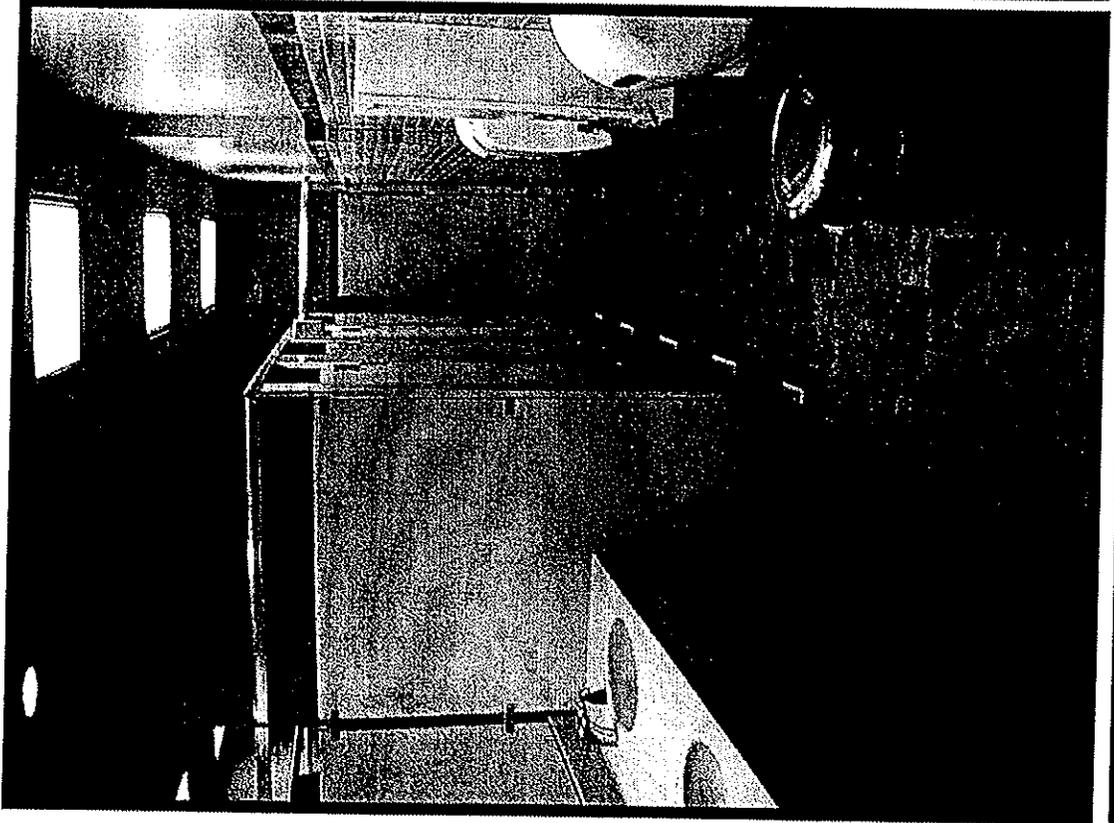
51-058

5-C-59



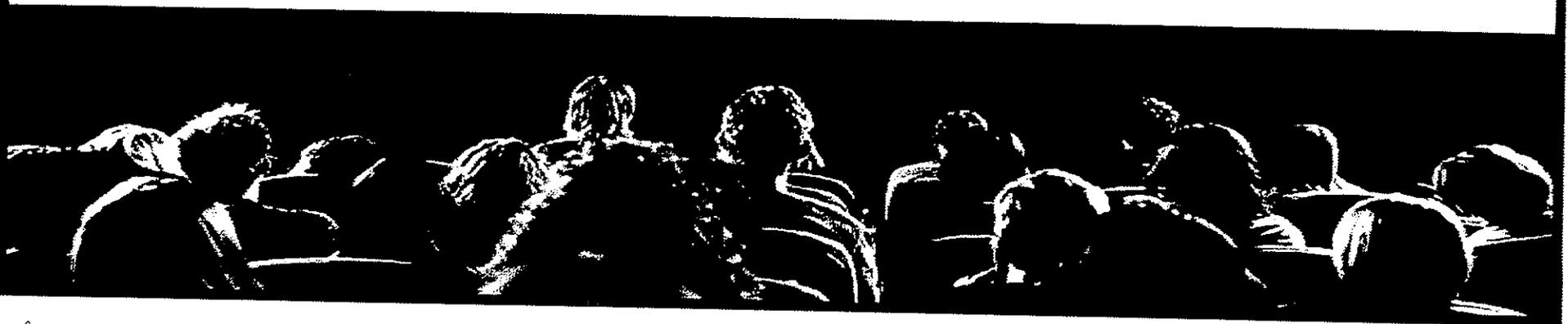
PROPOSED Bathroom Plans

PROPOSED Bathroom Concepts



Infrastructure & Code Compliance **ADA COMPLIANT BATHROOMS**

- **Meet Current Health Code Requirements**
- **ADA Accessibility**
- **Provide Required Amount of Fixtures**
- **Install Plumbing to Meet Current Code**
- **Install Proper Ventilation**
- **Update to New Décor & Fixtures**
- **Install Changing Tables**

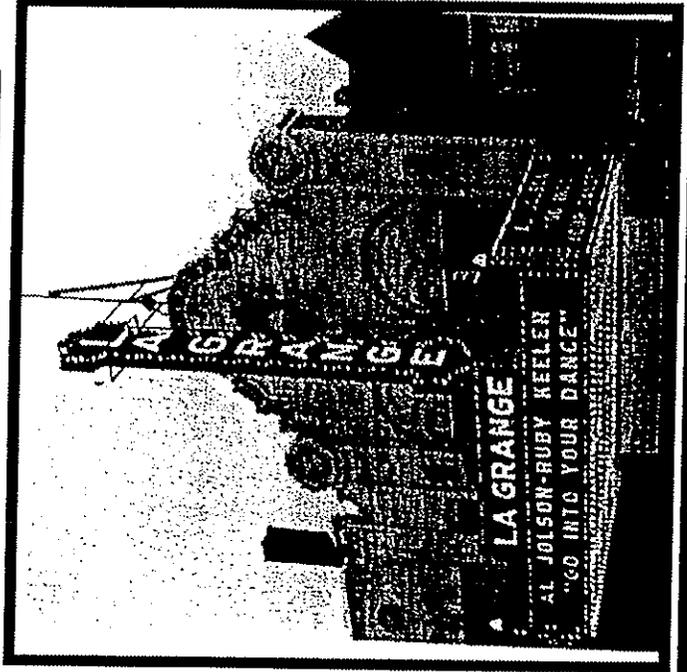
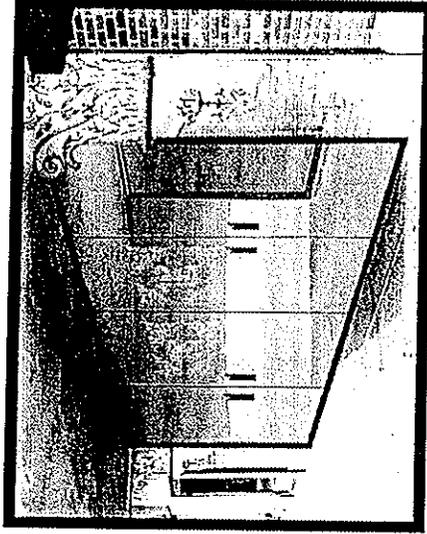
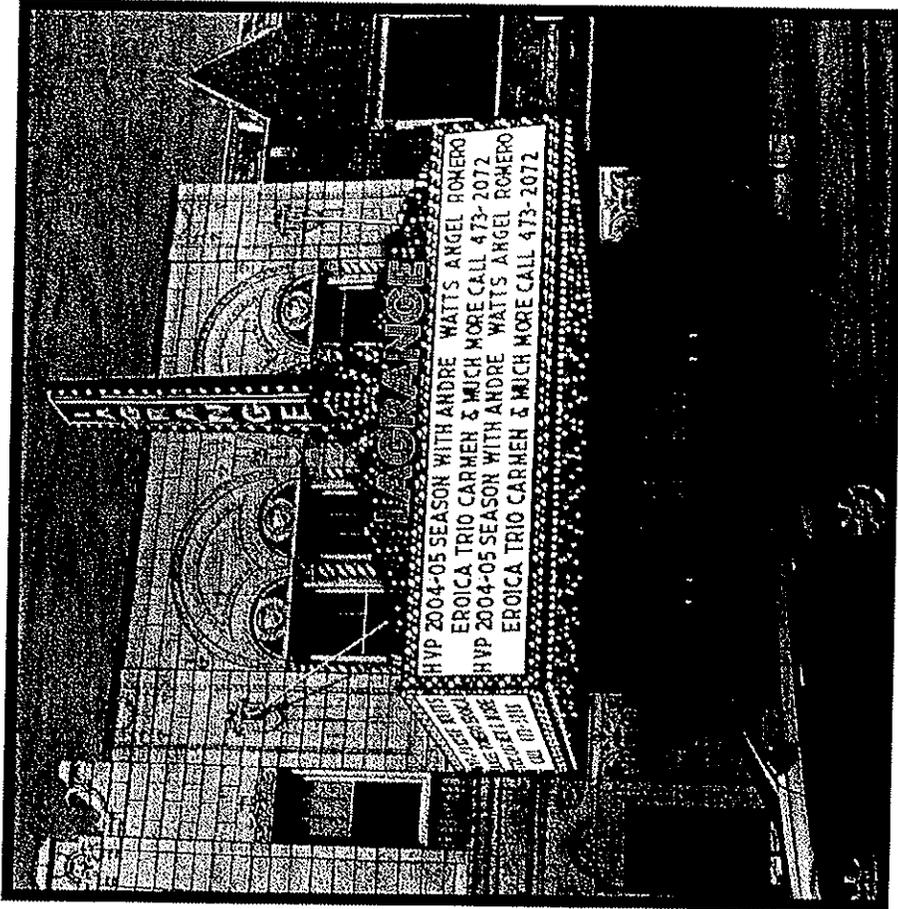


Marquee & Entrance



5-62

PROPOSED Marquee & Entrance



5-5163

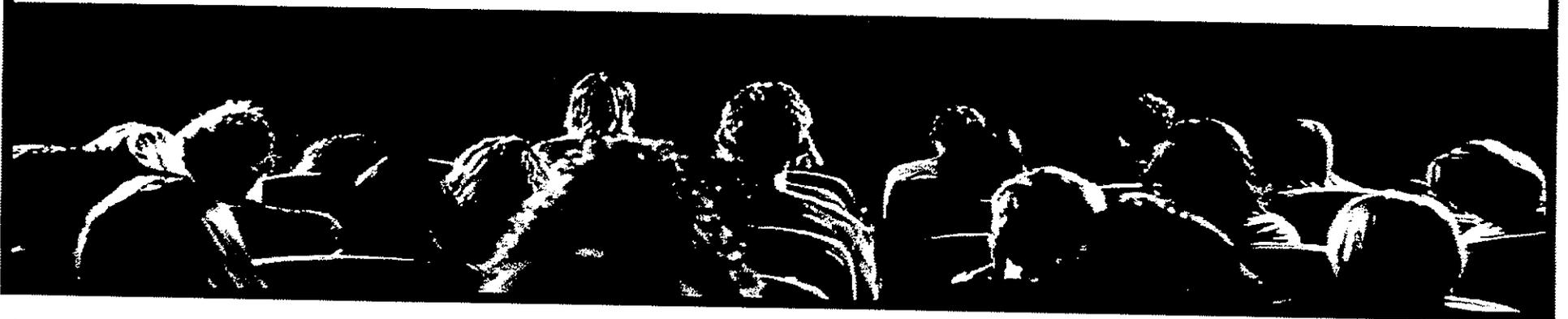
Infrastructure & Code Compliance **MARQUEE & ENTRANCE**

- **Remove Existing Marquee**
- **Build new pediment to create proportion for the Original “Vertical” back above Marquee**
- **Replace the 40s or 50s era Triangular Marquee with the *Original Square One***
- **Restore Historic Feel of Marquee**
- **New Entrance Doors and Vestibule**



Infrastructure & Code Compliance **Façade, Roof and Other Exterior**

- Restore the *Original* Renaissance-Style Façade
- Terracotta Repair and Caulking
- Repair Roof and Parapet
- Remove Penthouse and Chimney
- Tuck Point
- New Granite Base
- New Exterior and Alley Lighting



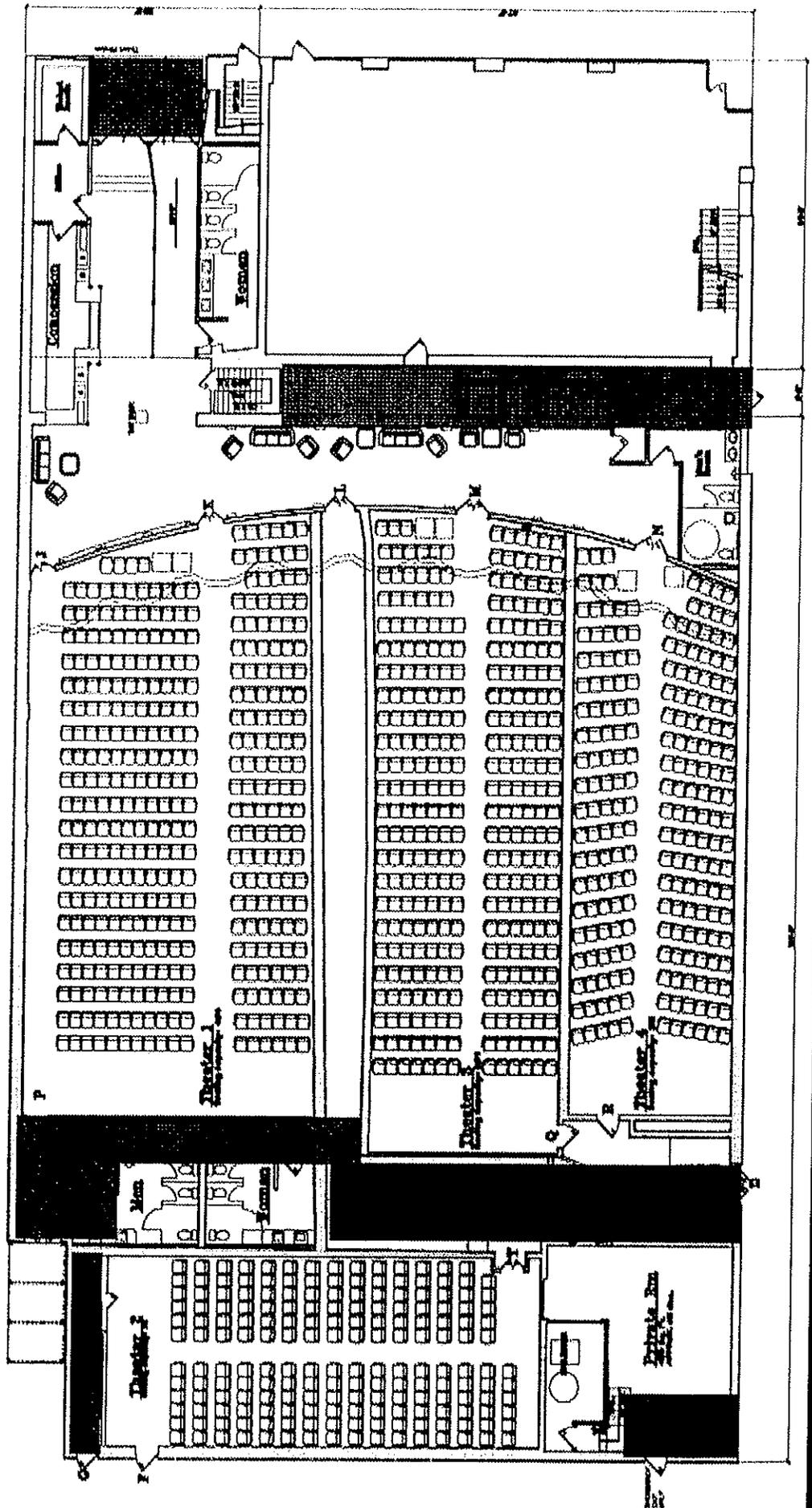
5-6-65

Exiting



5-566

PROPOSED Exiting



5-7-67

Infrastructure & Code Compliance

EXITING

- **New Exiting Layout**
- **New Access to Projection Room**
 - **Remove Current Stairs**
 - **Make Current Alley "Indoor" Corridor**
- **ADA Accessibility**
- **Improved Hallway to Theatre 2**
- **New Fire Exit Doors**
- **Panic Door Hardware to Meet Code**
- **Vestibule Created at Front Entrance**



5-C.68

EXHIBIT F

INSURANCE REQUIREMENTS

5-C.69