

9/30/2004

66-R-04

A RESOLUTION

**Authorizing the Interim City Manager to Enter Into
a Lease with the Next Theater Company
for the Theater at Noyes Cultural Arts Center**

WHEREAS, Resolution 13-R-04 approved renewal of certain leases at the Noyes Cultural Arts Center, among which was that for the lease of Studio Space 108 to the Next Theater Company for the term of March 1, 2004 to February 5, 2005; and

WHEREAS, the Next Theater Company has previously leased the theater space by lease expiring on May 30, 2004; and

WHEREAS, the Next Theater Company is desirous of leasing the theater at the Noyes Cultural Arts Center on an intermittent basis when it is not in use by the City; and

WHEREAS, such a lease is in the best interests of the citizens of Evanston,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

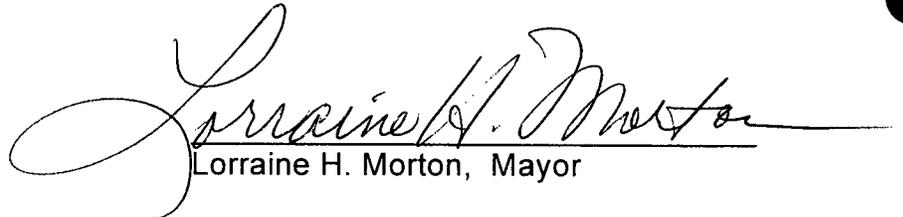
SECTION 1: That the foregoing recitals are found as fact and made a part hereof.

SECTION 2: That the Interim City Manager is hereby authorized and directed to sign, and the City Clerk hereby authorized and directed to attest

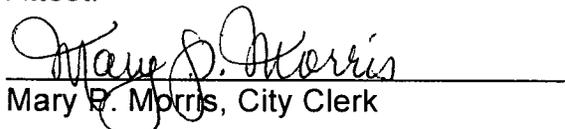
on behalf of the City of Evanston, a lease between the City and the Next Theater Company for the theater at the Noyes Cultural Arts Center. Such lease shall be in substantial conformity with the Lease effective October 1, 2004 and ending on May 31, 2006, during the months stated in said lease, for the consideration stated therein, marked as Exhibit 1 attached hereto and incorporated herein by reference.

SECTION 3: That the Interim City Manager is hereby authorized and directed to negotiate any additional terms and conditions of the lease as may be determined to be in the best interests of the City.

SECTION 4: That this Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.


Lorraine H. Morton, Mayor

Attest:


Mary B. Morris, City Clerk

Adopted: October 11, 2004

**NOYES CULTURAL ART CENTER
LEASE FOR THE NOYES THEATRE**

LESSOR:

City of Evanston
2100 Ridge Avenue
Evanston, IL. 60201

LESSEE:

Next Theatre Company
Judy Kemp, President
1026 Forest
Evanston, IL. 60202
(847) 475-5569 (H); (847) 475-1875 (S)

DATE OF LEASE	10/1/04	BEGINNING & ENDING OF TERM 1	10/1/04 2/28/05	SQUARE FOOT RATE	\$10.76
SPACE LEASED	SQUARE FEET	CURRENT DEPOSIT	\$-0-	SEC. DEPOSIT ADJUSTMENT	\$2,786.92
Theatre	2,146.70				
Theatre Stage	401.0				
Greenroom	410.8				
Kitchen	89.2				
Washroom	34.1				
2 Display Cases	26.29				
TOTAL SQ. FT.	3,108.09				
MONTHLY RENT TERM 1		COMMUNITY SERVICE 1		MONTHLY RENT TERM 2	WILL NOT EXCEED 10% INCREASE
10/1/04-2/28/05	\$ 2,786.92	10/1/04-2/28/05	\$2,090.19	3/1/05-5/31/05	
				TERM 3	
				9/1/05-2/28/06	
DATE OF LEASE	10/1/04	BEGINNING & ENDING OF TERM 2 AND TERM 3	3/1/05-5/31/05 AND 9/1/05-2/28/06	SQUARE FOOT RATE	\$11.84 (maximum)
					\$11.84 (maximum)
SPACE LEASED	SQUARE FEET	CURRENT DEPOSIT	\$2,786.92	SEC. DEPOSIT ADJUSTMENT	\$278.69 (maximum)
Theatre	2,146.70				
Theatre Stage	401.0				
Greenroom	410.8				
Kitchen	89.2				
Washroom	34.1				
2 Display Cases	26.29				
TOTAL SQ. FT.	3,108.09				
MONTHLY RENT TERM 2	\$3,065.61 (maximum)	COMMUNITY SERVICE TERM 2	\$1,379.53 (maximum)	MONTHLY RENT TERM 4	WILL NOT EXCEED 10% INCREASE
3/1/05-5/31/05		3/1/05-5/31/05	AND	3/1/06-	
AND TERM 3	\$3,065.61 (maximum)	AND TERM 3	\$2,759.05 (maximum)	5/31/06	
9/1/05-2/28/06		9/1/05-2/28/06	\$4,138.58		
DATE OF LEASE	10/1/04	BEGINNING & ENDING OF TERM 4	3/1/06-5/31/06	SQUARE FOOT RATE	\$13.02 (maximum)

PURPOSE: For and in consideration of the terms of this lease, Lessor agrees to lease Lessee space as diagramed in Appendix "A", herein after referred to as the Leased Premises or Noyes Theatre. This Lease permits only the production by Lessee of the following: live theatre performances, auditions, rehearsals, set building, acting classes, discussions (panel and post-show), lectures, master classes, directing classes, writing classes, play/season related receptions, donor receptions, theatre demonstrations, theatre meetings, light hang/focus, sound/ hang focus, costume fittings, outreach workshops/meetings, play readings/staged readings and preparation for all of the above activities.

1) RENT.

- a) TO BE PAID ON OR BEFORE THE FIRST OF EACH MONTH, at the administrative office of the Noyes Cultural Arts Center, (NCAC) 927 Noyes Street, Evanston, IL 60201; or at the Evanston Recreation Department, (ERD) Evanston Civic Center, 2100 Ridge Avenue, Evanston, IL 60201.
- b) This lease is for 5 terms. The terms run from 10/1/04 through 2/28/05 (term 1), 3/1/05 through 5/31/05 (term 2), 9/01/05 through 2/28/06 (term 3), 3/1/06-5/31/06 (term 4), and 8/1/05-8/31/05 (term 5). The terms are not for consecutive months to allow Lessor to use the leased premises during times when Lessee has no need for said premises. The rent for each term is set forth above. During the 8/05 term, Lessee shall pay rent on an hourly basis at \$10.77 per hour, with no community service obligation for use of the theatre space, kitchen, and washroom only. The said premises will be available to the Lessee Monday through Friday from 7:00 p.m. to 11:00 p.m., on Saturday from 7:30 a.m. and 11:00 p.m., and Sunday from 10:00 a.m. to 6:00 p.m. only with prior written approval from the Director of Parks/Forestry & Recreation or designee. The extended 2:00 a.m. hours are inapplicable to this 8/05 term. At no time shall Lessee move, remove, handle, injure, or disturb any scenery, props, or any property not theirs on or in the leased premises. In addition on two weekdays during the 8/05 term, the Lessor requires exclusive use of the leased premises for 24 hours each day. Lessor will notify Lessee in writing no later than 6/30/05 of the dates, which may or may not be consecutive. Lessor's decision as to these dates is final.
- c) The lease will automatically renew for each term unless, no less than thirty (30) days before end of the previous term, either Lessee or Lessor notifies the other in writing of an intent not to renew. All lease provisions shall remain the same, except that applicable new legislation shall be incorporated by reference, a renegotiation of the Community Service requirements between Lessee and Lessor, the rent assessment for each term shall not exceed 10% of prior term monthly rent, and the Lessor reserves the right to revise the Lessee's insurance requirements as to type(s) of coverage and policy amounts. Spaces at the Noyes Cultural Arts Center are leased at below market rates for comparable space. It is the City of Evanston's sole option to decide the rent. Prior to execution of this Lease and within 10 days of the first month of any term of this Lease, all Lessees must provide Lessor with a copy of their: IL AG900-IL - Illinois Charitable Organization Annual Report (if not-for profit) or Federal Income Tax Return, 1040 Schedule C, 1120(s) or 1065 (if for profit).
- d) Lessee's use of the Leased Premises shall only be during the hours and days the Center is open. Those hours, as well as the late hours provide for below. In addition, Lessee's staff may access the Leased Premises until 2:00 a.m. (the "Late Hours") on any day of the week for the sole purpose of completing set building preparation for shows. No other activity is permissible after 11:00 p.m., Monday through Saturday and after 6:00 p.m. on Sundays. Only Lessee's staff is permitted in the Leased Premises during the later hours. Notwithstanding any of the foregoing on dates the building is closed, Lessee may not use the premises during the late hours. Late hours are not permissible on the dates set forth in Section 1(e) of this Lease. The door to the Leased Premises must be kept locked at all times. Lessee shall not open the door to anyone in the late hours. The door may not be propped open for any reason. Lessee must develop a written procedure to assure that one of its staff is designated as responsible for assuring that the requirements of this section are followed. The procedure must include steps to assure that all persons are out of the Leased Premises no later than the 2:00 a.m. and that the door is locked. Lessee must provide security by its staff or by a contractor during the late hours. A contractor must present evidence of the insurance and indemnity in Appendix I in amounts, types, and form satisfactory to the City. Lessee is responsible to Lessor for all costs associated with false security system alarms attributable to Lessee or its invitees. Lessee shall observe the Time of Use set forth in Appendix D during the late hours as well as during the hours the Center is open. Lessor reserves the right to change these times, either permanently or temporarily. In the event of such changes, resulting in a reduction of hours, Lessee will not be entitled to a reduction in rent or community service obligations.
- e) The Center will be closed on the following dates in observance of:
 - i) Thanksgiving, Thursday & Friday, November 25 & 26, 2004
 - ii) Christmas Eve, Friday, December 24, 2004
 - iii) Christmas Day, Saturday, December 25, 2004
 - iv) New Years Day, Saturday, January 1, 2005;

event, Lessee will pay for overtime Custodial charges necessary to keep/have the Center open beyond normal building hours in addition to a \$53.00 service fee (utility charge), and leased charges associated with the leased space and equipment if applicable. When necessary as determined by the City of Evanston, Lessee will be required to provide security personnel approved by the City.

- 7) MOVING. If in the sole judgment of the Lessor, the Lessor requires vacation of Leased Premises and relocation within the NCAC in the interest of Lessor, excluding an emergency, Lessor will give Lessee sixty (60) days written notice. The Lessor will arrange for, and bear the cost of, moving lessee's contents (excluding computers, wiring, and telephone(s) into a comparable space with comparable amenities within the NCAC. IF a comparable space is not available or if Lessee/Sublessee does not accept the space offered by Lessor, Lessee/Sublessee will vacate the space by the date determined in written notice from Lessor, or at the end of this lease period, whichever occurs first. If Lessee fails to vacate by the date determined in writing from Lessor or at the end of the lease period, Lessee will be charged a \$25.00 per day storage fee or a daily storage fee based on the daily cost of the leased space whichever is greater.
- 8) LESSEE NOT TO MISUSE, SUBLET, ASSIGN.
 - a) Lessee will not allow said Leased Premises to be occupied in whole or in part by any other person for reasons not approved in writing in advance by the Director of Parks/Forestry & Recreation or designee and will not assign or sublet the same nor any part thereof, nor lend, transfer, reproduce or give out keys without the prior written consent of the Director of Parks/Forestry & Recreation or designee and will not permit any transfer by operation of law of the interest in said Leased Premises nor permit the Leased Premises to be used for any purpose that will injure the reputation of the City of Evanston, be slanderous, libelous, obscene, violate applicable legislation, increase the fire hazard of such building or disturb staff, co-lessees or the neighborhood. (See Appendix C.)
 - b) This lease may not be assigned by either party without the written consent of the other;
 - c) Shall be construed and interpreted under and in accordance with laws of the State of Illinois; and
 - d) Constitute the entire understanding of the parties hereto, superseding any and all prior agreements, whether written or oral.
 - e) Lessee shall not co-produce, sponsor, or co-present additional programs, whether or not they generate revenue.
 - f) All rules and regulations in this lease apply to any permitted co-operative ventures. Any permitted co-operative venture, or the like shall not release Lessee of liability under this Lease or permit any subsequent prohibited act, unless specifically provided in such consent. Lessee agrees to pay to Lessor, on demand, all costs incurred by Lessor in connection with any request by Lessee of Lessor in connection with any consent to any co-operative venture by Lessee.
 - g) Lessee understands and agrees the Leased Premises are public property and that all activities and productions must be consistent with this public status. Any violation of this provision may, at the Lessor's option, be a material breach of the lease.
- 9) INSURANCE/LIABILITY PROVISIONS.
 - a) Comprehensive General Liability Policy. Lessee shall, during the entire term hereof, keep in full force and effect a Comprehensive General Liability policy with respect to the Leased Premises, and the business operated by the lessee and any subtenants of the lessee in the Leased Premises in which bodily injury limits and property damage limits shall be as set forth in Appendix E to this Lease, Lessee shall also insure the following indemnity provisions and such agreement shall be clearly recited in the Insurance Policy:

Lessee covenants and agrees that it will protect and save and keep owner/lessor forever harmless and indemnified against and from any penalty or damages or charges imposed for any violation of applicable laws or ordinances, including, but not limited to, violations of the ADA, or as a result of accidents or other occurrences, relating to Lessee's use of the Leased Premises or the Noyes Cultural Arts Center whether occasioned by neglect of lessee or those holding under lessee, and including, but not limited to issues arising or alleged to have arisen out of failure to comply with the ADA. The Lessee shall indemnify, protect and save harmless the City of Evanston, its agents, officials and employees, against all injuries, deaths, loss, damages, claims, patents' claims, suits, costs and expenses that may in anywise accrue against the City in consequence of the granting of this lease or which may in anywise result therefrom, whether or not it shall be alleged or determined that the act was caused through the negligent act or omission of the Lessee or his employees, if any, and the Lessee shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any shall be rendered against the City in any such act, the Lessee shall, at his own expense, satisfy and discharge same.

- iv) If the Leased Premises or the Noyes Cultural Arts Center are made unlesseeable or not useable for the purposes allowed in this Lease as a result of war, terrorism, insurrection, civil commotion, riots, acts of God or the enemy, governmental action, strikes, lockouts or picketing, and such condition continues for a period of one week, then Lessee shall have the right to terminate this Lease retroactively as of the date of the unlesseeability or unusable condition, by giving the Lessor written notice and vacating the Leased Premises immediately. Such right to terminate shall be Lessee's sole remedy and under no circumstances shall Lessor have any liability for damages of any nature whatsoever, including, without limitation, business interruption, incidental or consequential.
- 13) AMERICANS WITH DISABILITIES ACT (ADA). All Noyes Resident Artists classes, programs and activities are subject to all applicable laws regarding non-discrimination, including the ADA. ADA prohibits discrimination on the basis of disability. Reasonable accommodations must be made in all Noyes Cultural Arts Center activities and services to enable participation by an individual with a disability. Compliance with ADA in respect to Lessee/Sublessee's activities is the responsibility of Lessee/ Sublessee.
- 14) OCCUPATIONAL HEALTH AND SAFETY ACT (OSHA). Lessee covenants and agrees that the use of any power tools, chemicals, or other harmful or potentially harmful products, devices, or materials on the Leased Premises by Lessee, its agents, employees, students, or any individuals under the care, control or tutelage of Lessee shall be governed by the Occupational Health and Safety Act of 1980 as now or hereafter amended.
- 15) LESSOR'S ACCESS TO LEASED PREMISES. Lessor shall have the right to retain a set of keys to the Leased Premises, and Lessee shall not change any locks without Lessor's written authorization, and without providing Lessor with keys for such new locks. The Lessee shall permit the Lessor to erect, use and maintain pipes, ducts, wiring and conduits in and through the Leased Premises. The Lessor or Lessor's agents shall have the right to enter upon the Leased Premises to control heat, electricity and air conditioning, to inspect the same, and to make such decorations, repairs, alterations, improvements or additions to the Leased Premises or the Noyes Cultural Arts Center as the Lessor may deem necessary or desirable, and the Lessor shall be allowed to take all material into and upon Leased Premises that may be required therefor without the same constituting an eviction of the Lessee in whole or in part and the rent reserved shall in no wise abate while said decorations, repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of the Lessee, or otherwise. If the Lessee shall not be personally present to open and permit an entry into Leased Premises, at any time, when for any reason an entry therein shall be necessary or permissible, the Lessor or Lessor's agents may enter the same by using the key, or may forcibly enter the same, without rendering the Lessor or such agents liable therefore (if during such entry Lessor or Lessor's agents shall accord reasonable care to Lessee's property), and without in any manner affecting the obligations and covenants of this Lease. Nothing herein contained, however, shall be deemed or construed to impose upon the Lessor any obligations, responsibility or liability whatsoever, for the care, supervision or repair of the Noyes Cultural Arts Center or any part thereof, other than as herein provided. The Lessor shall also have the right at any time without the same constituting an actual or constructive eviction and without incurring any liability to the Lessee therefore, to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, stairs, toilets or public parts of the Noyes Cultural Arts Center, and to close entrances, doors, corridors or other facilities. The Lessor shall not be liable to the Lessee for any expense, injury, loss or damage resulting from work done in or upon, or the use of, any adjacent or nearby building, land, street, or alley.
- 16) THEATER AS PUBLIC PROPERTY: Lessee understands and acknowledges that the Leased Premises are public property. Lessee further understands and agrees that all plays and other productions presented therein shall be consistent with said public nature.
- 17) CONDITION AND UPKEEP OF LEASED PREMISES. Lessee knows the condition of the Leased Premises inasmuch as Lessee has used said Leased Premises for its performances for at least ten (10) years immediately preceding the Lease. The Lessee's taking possession shall be conclusive evidence as against the Lessee that the Leased Premises were in good order and satisfactory condition when the Lessee took possession except for a list of items to be completed or repaired, signed by Lessor and Lessee. No promise of the Lessor to alter, remodel, decorate, clean or improve the Leased Premises or the Noyes Cultural Arts Center and no representation respecting the condition of the Leased Premises or the Noyes Cultural Arts Center have been made by the Lessor to the Lessee, unless the same is contained herein, or made a part hereof. Lessee will keep said Leased Premises, including all walls, surfaces, and appurtenances, in good repair. Lessee shall be responsible for repairs, damages and losses for damages sustained outside the Leased Premises attributable to lessee's activities, occasioned by negligence of Lessee and of Lessee's/Sublessees and invitees. All damage must be reported in writing to the Parks/Forestry & Recreation Department Director or designee and must occur within thirty (30) days unless the Parks Forestry & Recreation Department Director or designee gives a prior written request or grants approval for an extension. If Lessee fails to make the necessary repairs by the date determined by the Lessor, Lessor has the option to make the necessary repairs and Lessee agrees to promptly pay for those repairs upon rendition of an invoice by Lessor. Lessor may terminate this

- b) The Lessee shall not waste water by tying, wedging or otherwise fastening open, any faucet.

20) ELECTRICAL SERVICE.

- a) The Lessee shall not install in the Leased Premises any equipment which uses a substantial amount of electricity without the advance written consent of the Lessor. The Lessee shall ascertain from the Lessor the maximum amount of electrical current which can safely be used in the Leased Premises, taking into account the capability of the electric wiring in the Noyes Cultural Arts Center and the Leased Premises and the needs of other lessees in the Noyes Cultural Arts Center and shall not use more than such safe capacity. The Lessor's consent to the installation of electric equipment shall not relieve the Lessee from the obligation to not use more electricity than such safe capacity as 150 amps in the existing 200 amp LP8 panel.
- b) Lessee acknowledges that the electrical service to the stage lighting of the Leased Premises is limited to the capacity of the 200 amp, three-phase LPK panel and Lessee understands and agrees that no alteration, modification or enlargement of these circuits shall be undertaken without written permission of Lessor.
- c) Lessee shall use three-wire, grounded SJ-type electrical cable of number 14 copper wire or larger for all stage cable.
- d) All electrical lighting modifications shall be inspected by the City of Evanston Building Department not less than 48 hours prior to any performances. The sole burden of arranging the inspection in a timely manner is upon the Lessee. Lessee will provide the City of Evanston Building Department with 72 hour notice prior to the required inspection time. No performance can be given without the Building Department's first having issued its written approval of the electricals.

- 21) CARE, MAINTENANCE AND CUSTODIAL SERVICES. The Lessee shall, at the Lessee's own expense, keep the Leased Premises in good condition and shall pay for the repair of any damages caused by the Lessee, its agents, employees or invitees. The Lessee shall keep the Leased Premises in clean condition and presentable to the public. The Lessee shall pay the Lessor for overtime and for any other expense incurred in the event that repairs, alterations, decorating or other work in the Leased Premises are not made during ordinary business hours at the Lessee's request.

- 22) ALTERATIONS. The Lessee shall not do any painting or decorating, or erect any partitions, make any alterations in or additions to the Leased Premises or the Noyes Cultural Arts Center, or do any nailing, boring or screwing into the ceilings, walls or floors, without the Lessor's prior written consent in each and every instance. Unless otherwise agreed by Lessor and Lessee in writing, all such work shall be performed either by or under the direction of the Lessor, but at the cost of Lessee. Please see attached Appendix H for review of schedule of set and lighting/sound reviews for the 2004-2005 production schedule. The Lessee shall furnish the following to the Lessor for approval before commencement of the work or delivery of any materials onto the Leased Premises or into the Noyes Cultural Arts Center :

- a) plans and specifications;
- b) names and addresses of contractors;
- c) copies of contracts;
- d) necessary permits including, but not limited to, electrical;
- e) indemnification in form and amount satisfactory to Lessor and certificates of insurance from all contractors performing labor or furnishing materials, insuring against any and all claims, costs, damages, liabilities and expenses which may arise in connection with the alterations or additions.

The Lessor's decision to refuse or approve such consent shall be conclusive. Whether the Lessee furnishes the Lessor the foregoing or not, the Lessee hereby agrees to hold the Lessor and its respective agents and employees harmless from any and all liabilities of every kind and description which may arise out of or be connected in any way with said alterations or additions. Any mechanic's lien filed against the Leased Premises, or the Noyes Cultural Arts Center of which the same form a part, for work claimed to have been furnished to the Lessee shall be discharged of record by the Lessee within ten (10) days thereafter, at the Lessee's expense. Upon completing any alterations or additions or at the request of the Lessor, the Lessee shall furnish the Lessor with contractors' affidavits and full and final waivers of lien and use. All alterations and additions shall comply with all insurance requirements and with all ordinances, regulations, laws and other requirements of any pertinent governmental authority. All alterations and additions shall be constructed in a good and workmanlike manner and good grades of materials shall be used.

All additions, decorations, fixtures, hardware, non-grade fixtures and all improvements, temporary or permanent, in or upon the Leased Premises, whether placed there by the Lessee or by the Lessor, shall, unless the Lessor requests their removal, become the Lessor's property and shall remain upon the Leased Premises at the termination of this Lease by lapse of time or otherwise without compensation or allowance or credit to the Lessee. If, upon the Lessor's request, the Lessee does not remove said additions, decorations, fixtures, hardware, non-grade fixtures and improvements, the Lessor may remove the same and the Lessee shall pay the cost of such removal to the Lessor upon demand.

- 23) AMENDMENTS. This Lease may not be modified or amended except in writing signed by both parties hereto.

b) if the Lessee, at the address first above written.

29) MISCELLANEOUS.

- a) Applicable Law. Lessee agrees to observe all applicable legislation and regulations in its tenancy and use of the Leased Premises. The law of Illinois, including its conflicts of law provisions, shall apply to interpretation and enforcement of this Lease.
- b) Litigation. In the event of litigation or claims(s) against the City arising out of this Lease by anyone other than the Lessee, the Lessee shall cooperate fully with the City. In the event of litigation between the parties to this lease, the parties waive trial by jury. Venue shall be within Cook County, Illinois.
- c) Severability. In the event any provision(s) of this Lease are found by a court of competent jurisdiction to be in violation of applicable law, provision(s) unaffected thereby shall be in effect.

30) Signatures:

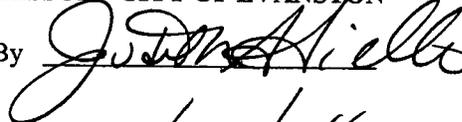
LESSEE:

By 

Date 10/21/04

Phone 847-475-1875

LESSOR: CITY OF EVANSTON

By 

Date 10/20/04

APPENDIX B

NOYES CULTURAL ARTS CENTER THEATRE

COMMUNITY SERVICE REQUIREMENTS

FOR

10/1/04 through 2/28/05 (term 1)

Next Theatre Company

REQUIRED AMOUNT: \$2,090.19

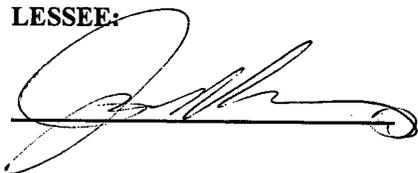
TOTAL APPROVED: \$

REQUIRED SERVICES

COMMUNITY SERVICE. Community Service activities written above must take place between 10/1/04 and 2/28/05. Community Service Proposals for the Lease terms 3/1/05 through 5/31/05 and 10/1/05 through 2/28/06 must be submitted in writing to the Director of Parks/Forestry & Recreation or designee by December 1st, 2004. All Community Service Proposals must be renegotiated and approved in advance of the lease year beginning 3/1/05 and, the approved service(s) must be performed between 3/1/05 and 1/1/06.

In the event the Lessee does not satisfactorily perform said Cultural Community Service, as outlined above of this lease, during the term of the lease, the Lessee shall pay Lessor a prorated sum based on the value of the outstanding requirement that shall not exceed 15% of the total annual rent. Said prorated sum will be billed to Lessee. Community Service Activity Report forms must be submitted to the Director of Parks/Forestry & Recreation or designee no later than ten (10) days after the completion of the approved Community Service activity and/or not later than 6/10/05. Subsequent renewal of this lease shall be conditioned upon the completion of said Community Service in a manner satisfactory and acceptable to the Lessor and any other conditions as established by the Lessor and communicated in writing to Lessee.

LESSEE:



DATE:

10/21/04

Applications for special one-day Class (X) 1 liquor licenses shall be submitted to the Liquor Control Commissioner shall have the authority to grant or refuse to grant all special one-day liquor licenses. No more than one (1) such license shall be granted per any facility per day. Notwithstanding the Class X liquor license, the possession and consumption of alcohol in the Noyes Cultural Arts Center are prohibited by City Code. The code is strictly enforced. Violations are punishable by fines up to and including \$750.00 and may constitute a breach of this lease resulting in termination. In the event Section 3-5-6(x) or other applicable provisions of the Liquor Ordinance are inconsistent with this lease, the Ordinance shall control.

4. ACCIDENTS & POLICE REPORTS.

- a. Any incident/accident occurring to anyone at the NCAC whether medical attention is received or not given, while attending an activity under the direction of Lessee and/or staff member of Lessee, or pre approved user by the Lessor whether occurring in a Community Use Rental space or public area of the Center, must be reported on an Accident Report form obtained at the NCAC office. Such reports are to be submitted to the Director of Parks/Forestry & Recreation or designee no later than 5pm the next City of Evanston business day or sooner following the accident.
- b. Lessee is responsible for reporting to the Cultural Arts/Arts Council Director or designee no later than the next City business day all incidents under the direction of Lessee and/or staff member of Lessee, occurring at the Noyes Cultural Arts Center and/or on the Noyes Cultural Arts Center grounds (Tallmadge Park adjacent to the NCAC) which result in a Police Report being made by the Evanston Police Department. Upon completing the Police Report, obtain from the Reporting Officer a card bearing the case number. Lessee will obtain a copy of the Police Report, and submit it to the Director of Parks/Forestry & Recreation or designee not later than 5pm the next City of Evanston business day or sooner after the Police Report is available.

5. OBSTRUCTIONS.

- a. Lessee will not use, or store at any time, any belongings in public areas of the Center without prior written consent of the Director of Parks/Forestry & Recreation or designee, or in any leased or non-leased space in violation of City of Evanston Fire Prevention Code F-601.1 "Obstructions," as it may be subsequently amended: "A person shall not at any time place an encumbrance of any kind before or upon any fire escape, balcony or ladder intended as a means of escape from fire. The means of egress from each part of the building, including stairways, egress doors and any panic hardware installed thereon, aisles, corridors, passageways and similar elements of the means of egress, shall at all times be maintained in a safe condition and shall be available for immediate use and free of all obstructions." Failure to observe the provisions of this paragraph may subject the lessee to a fine of up to \$750.00 per day/per violation and/or to non-renewal of this lease.
- b. Lessee will not display its furnishings in any non-leased space without prior written approval of the Director of Parks/Forestry & Recreation or designee, and will not allow its staff, students, patrons or participants to conduct any practice event or events related to Lessees activities in the public areas of the NCAC.

- 6. NON-INTERFERENCE/TENANTS.** Lessee covenants and agrees that Lessee will exercise all due caution and control to prevent any interference on the part of Lessee, its agents, employees, students, or other individuals under the care, control or influence of Lessee, with the practice of art by other tenants in the building. Lessee recognizes that, due to the use of the building wherein the leased premises are located as a cultural art center, an extraordinary amount of patience and consideration must necessarily be exercised by all parties to promote the creation of art.

7. DISPOSAL OF REFUSE

It is the responsibility of the Lessee to arrange via a private disposal firm for special pick up of it's theatre related refuse material and/or construction materials (hereafter called refuse). The City of Evanston is not equipped to and does not pick up construction debris. However as a courtesy to Lessee, the City will allow Lessee to discard its theatre refuse under specific guidelines. The City reserves the right to retract this courtesy arrangement for Lessee to discard it's refuse at any time during this Lease. Lessee will observe the following guidelines:

Lessee will provide the Cultural Arts Director with a schedule of dates no less than seven calendar days before Lessee strikes it set and disposes it's refuse. At no time will Lessee discard refuse in the City dumpsters totaling over 500 lbs. per refuse pick up by the City. The City will accept scrap metal. All scrap metal is to be placed neatly inside the dumpster area. The weight of the scrap metal will not be added to the refuse weight placed in the dumpsters. All refuse must be bagged to prevent blowing or scattering. All wood discarded must be broken up into sizes not to exceed 2'x2'x2'. Lessee will not place drywall or cement in the City dumpsters.

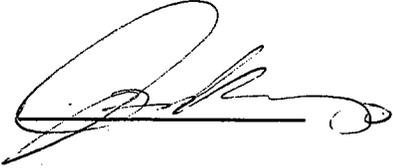
At no time will Lessee be permitted to discard any bulk wood (tree branches, tree stumps, larger than 3 inches in diameter) or hazardous waste to include: gas, oil, asbestos, medical waste, car parts, tires, aerosol paints, antifreeze, cleaning products, drain cleaners, fluorescent lamp bulbs, hobby chemicals, oil-based paints, household batteries, insecticides, lawn chemicals, old gasoline, paint thinners, pool chemicals, pesticides, solvents, used motor oil and herbicides, latex paints, agricultural wastes, farm machinery oil, explosives, fire extinguishers, fireworks, lead acid

could apply any time and/or if excessive usage as determined by Lessor occurs any time during the term of this contract.

15. **ASSOCIATED EXPENSES.** If for any reason attributable to lessee, or those holding under Lessee, a Noyes staff member, Facilities Management staff, Contractor/Sub-Contractor, or agent of the City of Evanston has to stay or return to the NCAC on holidays or after the employee's normal work shift(s), Lessee will incur the cost of a \$53.00 per hour (non-prorated) service utility fee and that employee's salary, plus any charges imposed on or billed to the NCAC/CITY OF EVANSTON by service agencies such as the NCAC Security Alarm Contractors, the Evanston Police and/or Fire Department, or any other.
16. Lessee pays all costs associated with, but not limited to: parking permits, custodial and/or staff overtime charges, and other charges as outlined in this lease contract or necessitated by the nature of Lessee's activities or actions. Prior written approval is needed from the Director of Parks/Forestry & Recreation or designee in order to perform any licensed trade work. All such work must be performed pursuant to applicable permits and in accordance with all applicable legislation and regulations. Lessee's failure to obtain prior written approval before performing any licensed trade work may result in termination of this leased contract.

LESSEE:

DATE:



10/21/04

APPENDIX E

NOYES CULTURAL ARTS CENTER THEATRE RENTAL CONTRACT

INSURANCE REQUIREMENTS

FOR LEASE TERM OF 10/1/04 THROUGH 2/28/05

TYPE OF INSURANCE Thirty day notice of cancellation Required on all certificates	MINIMUM INSURANCE COVERAGE	
	Each Occurrence	Aggregate
Commercial General Liability including: 1. Comprehensive form 2. Premises – Operations 3. Explosion & Collapse Hazard 4. Underground Hazard 5. Products/Completed Operations Hazard 6. Contractual Insurance – With an endorsement on the face of the certificate that it includes the “Indemnity” language set forth in paragraph 9 of the lease.	\$1,000,000	\$1,000,000
7. Broad Form Property Damage – construction projects only. 8. Independent contractors 9. Personal Injury.		The Insurance Certificate Must State That <u>The City of Evanston is Named as Additional Insured</u>
Automobile Liability Owned, Non-owned or Rented (as related to Tenants activities for leased space)	\$1,000,000	\$1,000,000
Workmen’s Compensation and Occupational Diseases	As required by applicable laws.	
Employer’s Liability	\$500,000	

Lessee: 

Date: 10/21/04

APPENDIX G

NOYES CULTURAL ARTS CENTER

THEATRE EQUIPMENT INVENTORY

LIGHTING INSTRUMENTS

22 Altman 65Q Fresnels w/C-clamp, color frame, safety cable

BTN Lamp and 2P&G Connector

2 Colortran 5/50 40 Degree Elipsoidals w/C-clamp, color frame, safety cable, EHG Lamp and 2P7G Connector

4 Colortran 5/50 50 Degree Elipsoidals w/C-clamp, color frame, safety cable EHG Lame and 2P&G Connector

LIGHTING BOARD & EQUIPMENT

1 Encore Control Console Lighting Board - Colortran Inc. 24/48

1 Key to above Lighting Board

1 Colortran Monitor 13"

2 ENR Series Dimmer Packs – Lee Colortran Model 600-004, 20 amp – 120 V

12 Dimmer modules

85 Various SJ Electric Cables – including SJ 12-3's & S J 14-3's

KITCHEN APPLIANCES

1 General Electric Refrigerator

Lessee's signature below indicates that the above-listed equipment is in working order.

Lessee: 

Date: 10/21/04

APPENDIX I

INDEMNITY

Contractor's insurance company shall insure the following indemnity agreement:

"The Contractor shall indemnify, protect and save harmless the City of Evanston, its agents, consultants, officials and employees, against all injuries, deaths, loss damages, claims, patents claims, suits, judgments, costs and expenses which may in anywise accrue against the City in consequence of the granting of this contract or which may in anywise result therefrom, whether or not it shall be alleged or determined that the act was caused through the negligent act or omission of the Contractor or his employees, of the sub-contractor or his employees, if any, or of the City or its employees; and the Contractor shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the City in any such act, the Contractor shall, at his own expense, satisfy and discharge same."

In the event of any conflict between the language of the insurance policy(s) between the language of the insurance policy(s) and the above-recited indemnity agreement, the indemnity agreement shall govern.

CONTRACTOR'S LIABILITY INSURANCE

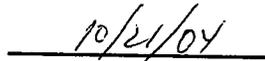
- Contractor shall not commence work under this contract until they have obtained all insurance required herein and such insurance has been approved by the City's Director of Safety and Risk Management. Nor shall the contractor allow and subcontractor to commence work until all similar insurance required of the subcontractor has been obtained.
- The City of Evanston shall be named as an additional insured n the policy of the contractor for whatever the policy limits are for the contractor, but in no event shall the Comprehensive General Liability limits be less than \$3,000,000.
- If the contractor has more than one project for which he has a contract with the City of Evanston there shall be separate Certificates of Insurance naming the City as an additional insured on each separate policy.
- In the event of accidents, injuries, or unusual events, whether or not any injury occurred, the contractor shall promptly furnish the City's Safety/Risk Management Director with copies of all reports of such incidents.
- The contractor shall furnish one (1) copy of a certificate, with the City named as an additional insured, showing the minimum coverage with insurance company acceptable to the City's Director of Safety and Risk Management outlined in Appendix E.

LESSEE:



A handwritten signature in black ink, appearing to be 'J. Blum', is written over a horizontal line.

DATE:



A handwritten date '10/21/04' is written in black ink over a horizontal line.