

6/24/2014

52-R-14

A RESOLUTION

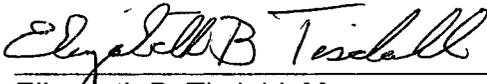
**Authorizing the City Manager to Negotiate Debt Repayment and
Authorize Enforcement of Collection with a Promissory Note to be
executed by Next Theatre Company**

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

SECTION 1: Next is a current tenant of the Noyes Cultural Arts Center and no longer able to meet its rent obligations to the City for the lease of certain theater and studio spaces within the City facility. The City Manager is hereby authorized and directed to negotiate debt repayment and authorize collection efforts with Next Theatre Company, an Illinois not-for-profit corporation ("Next"). The promissory note to be executed by Next is attached as Exhibit 1 and the term are incorporated herein by reference. The first payment under the Note (June 1, 2015) coincides with the conclusion of the tenancy at the Noyes Cultural Art Center (May 31, 2015).

SECTION 2: The City Manager is hereby authorized and directed to negotiate any additional conditions of the Agreement as he may determine to be in the best interests of the City in order to collect past due rent owed to the City by Next Theatre Company in the total principal amount of \$76,345.00 (Seventy-Six Thousand Three Hundred Forty-Five and 00/100 Dollars).

SECTION 3: This Resolution 52-R-14 shall be in full force and effect from and after its passage and approval in the manner provided by law.


Elizabeth B. Tisdahl, Mayor

Attest:


Rodney Greene, City Clerk

Adopted: July 14, 2014

EXHIBIT 1

Promissory Note

PROMISSORY NOTE

Name and Address of Borrower:

Next Theatre Company
927 Noyes Street
Evanston, IL 60201

Dated: _____, 2014

1. BORROWER'S PROMISE TO PAY

FOR VALUE RECEIVED, the undersigned, Next Theatre Company, an Illinois not-for-profit corporation (referred to hereafter as the "Borrower"), promise to pay to the order of the City of Evanston, an Illinois home rule municipal corporation, with its principal office located at 2100 Ridge Avenue, Evanston, Illinois (the "Lender"), in the manner provided in this Note, the principal sum of \$76,345.00 (Seventy-Six Thousand Three Hundred Forty-Five and 00/100 Dollars) (the "Loan"), together with interest computed on the basis of a 365 day year, from the date of disbursement on the balance of principal remaining from time to time unpaid at an annual rate equal to two percent (2.0%). Any principal amount not paid when due (at maturity, by acceleration, or otherwise) will bear interest thereafter until paid at a rate, which will be eighteen percent (18%). The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note will be called "Note Holder".

2. LOAN TERM, FORGIVENESS AND REPAYMENT

The term of the Loan is five (5) years commencing on **June 1, 2015** and ending on **May 31, 2020** (the "Loan Term"). The Loan will bear interest during the Loan Term at 2.0% (two percent) interest per annum and payable in monthly installments of **\$1,338.16 on or before the 1st of each month**. If the Borrower's Loan payment is five days after the first of the month or more, there shall be assessed Attached as Exhibit "1" is the repayment schedule for the entire Loan Term and incorporated herein by reference. The Loan can be pre-paid with no penalty or fee assessed against the Borrower.

Pursuant to City Council Resolution 52-R-14, the City authorized the collection of the past due rent from its long-term tenant and Borrower under this Note. The security deposit from the tenancy posted by Borrower several years ago in the amount of \$1,149.64 will be applied to the principal balance of this Loan after satisfaction of any and all repair costs incurred by the City following the termination of the tenancy.

4. DEFAULT AND REMEDIES

A. The occurrence of any one or more of the following events ("Event of Default") with respect to Borrower shall constitute a default hereunder ("Default"):

- 1) Failure to remit a loan payment to Lender;

2) Borrower or any beneficiary thereof shall (i) file a petition for liquidation, reorganization, or adjustment of debt under Title 11 of the United States Code or any similar law, state or federal, whether now or hereafter existing, or (ii) file any answer admitting insolvency or inability to pay debts, or (iii) fail to obtain a vacation or stay of involuntary proceedings within ten days, as hereinafter provided; or

3) Borrower or any beneficiary thereof shall make an assignment for the benefit of creditors of this Note, or shall admit in writing of its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator.

B. If the Borrower does not cure the Event of Default specified above upon notice from Lender within 15 (fifteen) days from said notice, the Lender may assert any all rights provided in law and in this Note. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the Borrower does not cure the Default within the specified Other Default Cure Period within the notice, then this Note is due and payable only with respect to the remaining balance of the Loan at the time of Default.

C. If the Borrower Defaults hereunder and fails to cure the Default, during the 5-year loan Term, the Loan shall be immediately due and owing and the balance of the Loan shall be immediately repaid to Lender in full.

D. If any payments of interest or the unpaid principal balance due under this Note become overdue for a period in excess of ten days, the Borrower shall pay to Lender a late charge of \$50 per day. If any attorney is engaged by Lender, including in-house staff (a) to collect the indebtedness evidenced hereby or due under the Loan Documents, whether or not legal proceedings are thereafter instituted by Lender; (b) to represent Lender in any bankruptcy, reorganization, receivership, or other proceedings affecting creditors' rights and involving a claim under this Note; (c) to protect the lien of any of the Loan Documents; (d) to represent Lender in any other proceedings whatsoever in connection with this Note or any of the Loan Documents or the real estate described therein; or (e) as a result of the Borrower's Default and collection efforts, the Borrower shall pay to Lender all reasonable attorneys' fees and expenses incurred or determined to be due in connection therewith, in addition to all other amounts due hereunder.

E. Lender's remedies under this Note, and all of the other Loan Documents shall be cumulative and concurrent and may be pursued singly, successively, or together against the Borrower and any other Obligors (as defined below), the Property, and Lender may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein, all in Lender's sole discretion. Failure of Lender, for a period of time or on more than one occasion to exercise its option to accelerate the maturity date shall not constitute a waiver of the right to exercise that option at any time during the continued existence of the Default or in the

event of any subsequent Default. Lender shall not by any other omission or act be deemed to waive any of its rights or remedies hereunder unless such waiver is in writing and signed by Lender, and then only to the extent specifically set forth therein. A waiver in connection with one event shall not be construed as continuing or as a bar to or waiver of any right or remedy in connection with a subsequent event.

5. PAYMENT OF NOTE HOLDER'S COSTS AND EXPENSES

If the Lender is required to initiate legal process as the result of the Borrower's Default as described above, the Lender will have the right to be paid back for all of its costs and expenses incurred as a result of such Default, to the extent not prohibited by applicable law. Those costs and expenses include but are not limited to, reasonable attorneys' fees, court costs, and related litigation expenses.

6. BORROWER'S WAIVERS

To the extent permitted by law, the Borrower waives all rights to require the Lender to do certain things. These things are: (A) to demand payment of amounts due (known as "presentment"); (B) to give notice that amounts due have not been paid (known as "notice to dishonor"); (C) to obtain an official certification of nonpayment (known as "protest"). If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Notes, including the promise to pay the full amount owed. Any person, who takes over these obligations, is also obligated to keep all promises made in this Note. The Lender may enforce its rights under this Note against each person individually or against all of us together.

7. GIVING OF NOTICES

Any notices that must be given to the Borrower under this Note will be given by delivering or by mailing by certified mail addressed to the Borrower at the address of the Property set forth above. Any notice that must be given to the Lender under this Note will be given by delivering it or mailing it by certified mail to the Lender at the following address:

City of Evanston
Attn: Marty Lyons, Chief Financial Officer/Asst. City Manager
2100 Ridge Avenue
Evanston, Illinois 60201

with a copy to:
City of Evanston
Attn: W. Grant Farrar, Corporation Counsel
2100 Ridge Avenue, Room 4400
Evanston, Illinois 60201

8. RESPONSIBILITY OF PERSONS UNDER THIS NOTE

The Lender may enforce its rights under this Note against the signatories, not individually but as officers of the Borrower. Any company or successor in interest to Borrower who takes over the rights or obligations of the Borrower, with the written permission of the Lender, will have all of the Borrower's rights and must keep all of the Borrower's promises made in this Note.

9. GOVERNING LAW AND WAIVER OF TRIAL BY JURY

This Promissory Note shall be governed by the laws of the State of Illinois. **Borrower hereby represents and warrants that it knowingly and voluntarily waives any rights to trial by jury for any litigation related to or arising out of, under, or in any way connected with the obligations of this Note.**

10. MISCELLANEOUS

The headings of sections and paragraphs in this Note are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions hereof. As used in this Note, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires. If any provision of this Note, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Note shall be construed as if such invalid part were never included herein. Time is of the essence of this Note.

Upon any endorsement, assignment, or other transfer of this Note by Lender or by operation of law, the term "Lender," as used herein, shall mean such endorsee, assignee, or other transferee or successor to Lender then becoming the holder of this Note.

This Note and all provisions hereof shall be binding on all persons claiming under or through the Undersigned. The terms "Undersigned" and "Borrower," as used herein, shall include the respective beneficiaries, successors, assigns, legal and personal representatives, executors, administrators, devisees, legatees, and heirs of the Undersigned and Borrower and shall be binding upon the same

The Undersigned have caused this Note to be executed as of the ____ day of July, 2014.

**BORROWER:
NEXT THEATRE COMPANY**

Signature: _____

Its: _____

Print Name: _____

EXHIBIT 1

LOAN PAYMENT SCHEDULE

Date	Interest	Principal	Balance
Jun, 2015	\$127.24	\$1,210.92	\$75,134.08
Jul, 2015	\$125.22	\$1,212.93	\$73,921.15
Aug, 2015	\$123.20	\$1,214.95	\$72,706.20
Sep, 2015	\$121.18	\$1,216.98	\$71,489.22
Oct, 2015	\$119.15	\$1,219.01	\$70,270.21
Nov, 2015	\$117.12	\$1,221.04	\$69,049.17
Dec, 2015	\$115.08	\$1,223.07	\$67,826.09
2015	\$848.19	\$8,518.91	\$67,826.09
Jan, 2016	\$113.04	\$1,225.11	\$66,600.98
Feb, 2016	\$111.00	\$1,227.16	\$65,373.83
Mar, 2016	\$108.96	\$1,229.20	\$64,144.62
Apr, 2016	\$106.91	\$1,231.25	\$62,913.38
May, 2016	\$104.86	\$1,233.30	\$61,680.07
Jun, 2016	\$102.80	\$1,235.36	\$60,444.72
Jul, 2016	\$100.74	\$1,237.42	\$59,207.30
Aug, 2016	\$98.68	\$1,239.48	\$57,967.82
Sep, 2016	\$96.61	\$1,241.54	\$56,726.28
Oct, 2016	\$94.54	\$1,243.61	\$55,482.67
Nov, 2016	\$92.47	\$1,245.69	\$54,236.98

Date	Interest	Principal	Balance
Dec, 2016	\$90.39	\$1,247.76	\$52,989.22
2016	\$1,221.01	\$14,836.87	\$52,989.22
Jan, 2017	\$88.32	\$1,249.84	\$51,739.38
Feb, 2017	\$86.23	\$1,251.92	\$50,487.45
Mar, 2017	\$84.15	\$1,254.01	\$49,233.44
Apr, 2017	\$82.06	\$1,256.10	\$47,977.34
May, 2017	\$79.96	\$1,258.19	\$46,719.15
Jun, 2017	\$77.87	\$1,260.29	\$45,458.86
Jul, 2017	\$75.76	\$1,262.39	\$44,196.46
Aug, 2017	\$73.66	\$1,264.50	\$42,931.97
Sep, 2017	\$71.55	\$1,266.60	\$41,665.36
Oct, 2017	\$69.44	\$1,268.71	\$40,396.65
Nov, 2017	\$67.33	\$1,270.83	\$39,125.82
Dec, 2017	\$65.21	\$1,272.95	\$37,852.87
2017	\$921.54	\$15,136.35	\$37,852.87
Jan, 2018	\$63.09	\$1,275.07	\$36,577.80
Feb, 2018	\$60.96	\$1,277.19	\$35,300.61
Mar, 2018	\$58.83	\$1,279.32	\$34,021.29
Apr, 2018	\$56.70	\$1,281.45	\$32,739.83
May, 2018	\$54.57	\$1,283.59	\$31,456.24
Jun, 2018	\$52.43	\$1,285.73	\$30,170.51

Date	Interest	Principal	Balance
Jul, 2018	\$50.28	\$1,287.87	\$28,882.64
Aug, 2018	\$48.14	\$1,290.02	\$27,592.62
Sep, 2018	\$45.99	\$1,292.17	\$26,300.45
Oct, 2018	\$43.83	\$1,294.32	\$25,006.13
Nov, 2018	\$41.68	\$1,296.48	\$23,709.65
Dec, 2018	\$39.52	\$1,298.64	\$22,411.01
2018	\$616.02	\$15,441.86	\$22,411.01
Jan, 2019	\$37.35	\$1,300.81	\$21,110.20
Feb, 2019	\$35.18	\$1,302.97	\$19,807.23
Mar, 2019	\$33.01	\$1,305.14	\$18,502.09
Apr, 2019	\$30.84	\$1,307.32	\$17,194.77
May, 2019	\$28.66	\$1,309.50	\$15,885.27
Jun, 2019	\$26.48	\$1,311.68	\$14,573.58
Jul, 2019	\$24.29	\$1,313.87	\$13,259.72
Aug, 2019	\$22.10	\$1,316.06	\$11,943.66
Sep, 2019	\$19.91	\$1,318.25	\$10,625.41
Oct, 2019	\$17.71	\$1,320.45	\$9,304.96
Nov, 2019	\$15.51	\$1,322.65	\$7,982.31
Dec, 2019	\$13.30	\$1,324.85	\$6,657.46
2019	\$304.33	\$15,753.55	\$6,657.46
Jan, 2020	\$11.10	\$1,327.06	\$5,330.40

Date	Interest	Principal	Balance
Feb, 2020	\$8.88	\$1,329.27	\$4,001.13
Mar, 2020	\$6.67	\$1,331.49	\$2,669.64
Apr, 2020	\$4.45	\$1,333.71	\$1,335.93
May, 2020	\$2.23	\$1,335.93	\$0.00
2020	\$33.32	\$6,657.46	\$0.00