



**GOSHEN REDEVELOPMENT COMMISSION
AGENDA FOR THE SPECIAL MEETING OF February 21, 2019**

The Goshen Redevelopment Commission will meet on February 21, 2019 at 3:00 p.m. in the City Court Room/ Council Chambers at the Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana.

1. CALL TO ORDER/ROLL CALL

2. NEW BUSINESS

Resolution 10-2019 – Approve Purchase Agreement for 65693 State Road 15

Resolution 11-2019 – Approve and Authorize Execution of Agreement between Redevelopment Commission and Goshen Theater, Inc.

3. OPEN FORUM

The open forum is for the general discussion of items that are not otherwise on the agenda. The public will also be given the opportunity at this time to present or comment on items that are not on the agenda.

8. ANNOUNCEMENTS

Next Regular Meeting – March 12, 2019 at 3:00 p.m.

RESOLUTION 10-2019

Authorize Approval of Purchase Agreement for 65693 State Road 15

WHEREAS Redevelopment is interested in acquiring the real estate at 65693 State Road 15 for additional right of way for the next phase of the Waterford Mills Parkway project.

WHEREAS the purchase price will be determined by the average of two appraisals, not to exceed \$159,000, the current listing price.

WHEREAS we are requesting the Commission's approval of the purchase agreement which is attached and made part of this resolution.

PASSED and ADOPTED on February 21, 2019.

Thomas W. Stump, President

Andrea Johnson, Secretary



**Department of Community Development
CITY OF GOSHEN**

204 East Jefferson Street, Suite 6 • Goshen, IN 46528-3405

Phone (574) 537-3824 • Fax (574) 533-8626

communitydevelop@goshencity.com • www.goshenindiana.org

Memo

To: Redevelopment Commission

From: Mark Brinson

Subject: Purchase of 65693 SR 15

Date: February 18, 2019

The Goshen Engineering Department is working with the Elkhart County Highway Department to prepare a preliminary route for the next phase of the Waterford Mills Parkway project. The next phase will extend west from State Road 15 to the existing bridge on County Road 40. The preliminary concept, shown as "Alternate 1" on the attachment, will require additional right of way acquisition. There are four parcels already owned by the Goshen Redevelopment Commission on the west side of State Road 15, however the road alignment may need to be shifted to the north, which would require additional right of way along State Road 15 (see property map attached).

An agreement to purchase real estate located at 65693 State Road 15 has been executed by staff. The agreement is subject to approval by the Goshen Redevelopment Commission, as well as the Goshen City Council. The property is currently vacant and listed for sale. The purchase price will be determined by the average of two appraisals, not to exceed \$159,000, the current listing price.

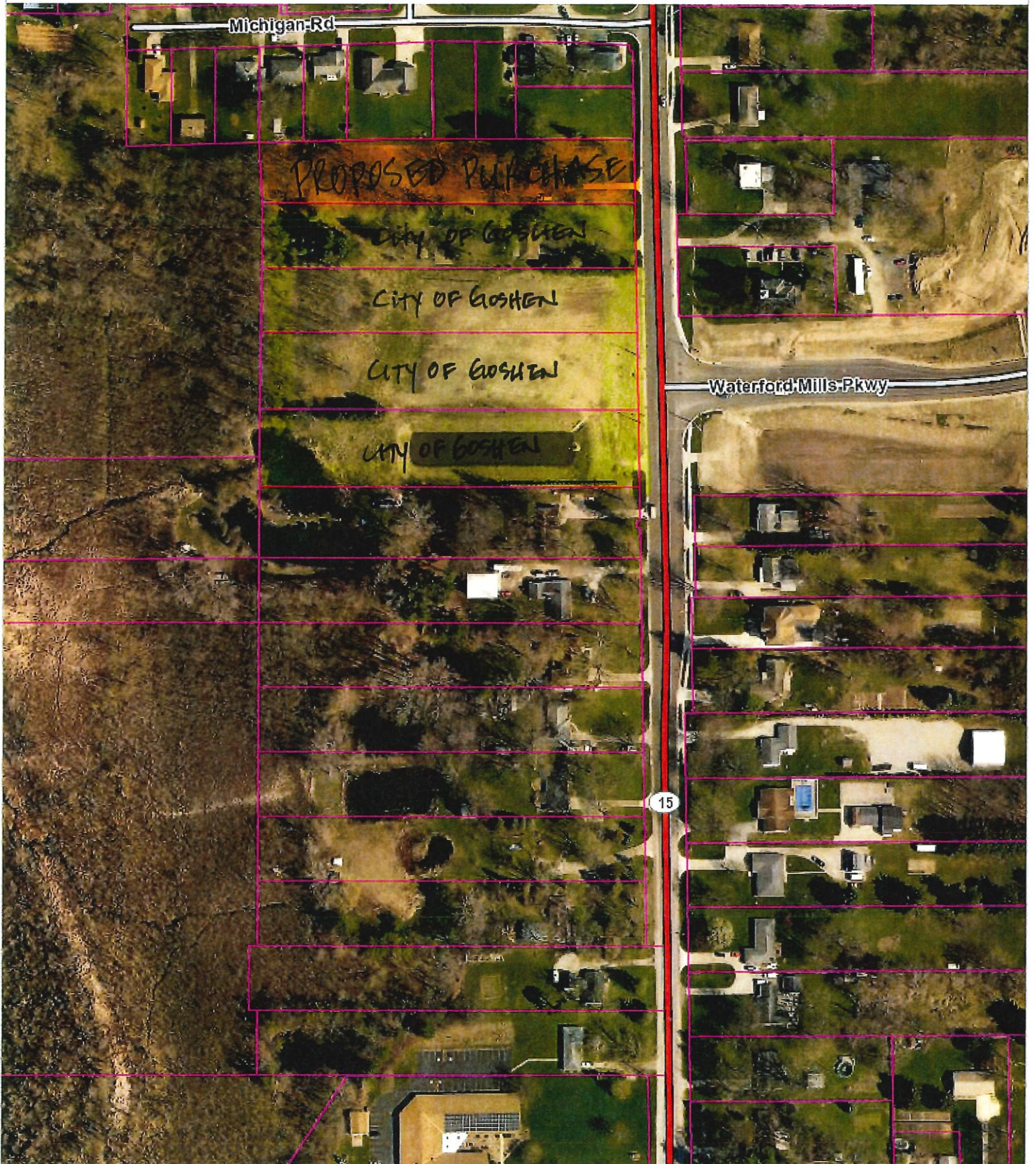
Upon approval of the resolution, appraisals will be ordered and the final purchase price will be determined. While the appraisal process is underway, we will also be amending the Economic Development Plan for the Consolidated Southeast TIF to specifically include this parcel, as well as other parcels that may be needed in the future for right of way.



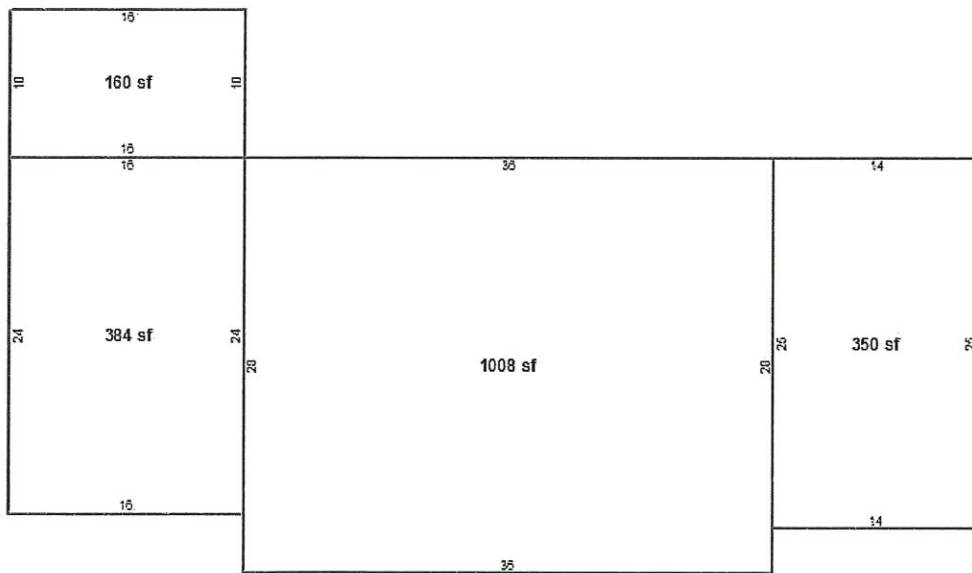
Waterford Mills Parkway to CR 40 Connection

PRELIMINARY
SUBJECT TO CHANGE

ALTERNATE 1



Elkhart County, IN
65693 STATE RD 15
39 DEGREES NORTH (855) GIS-3939



Parcel Information

Owner Name	Yoder E Gail
Owner Address	64855 Apple Ln Goshen, In 465269244
Parcel Number	20-11-28-477-005.000-014
Alt Parcel Number	11-28-477-005-014
Property Address	65693 State Rd 15, Goshen, In 46526
Property Class Code	510
Property Class	1 Family Dwell - Platted Lot
Neighborhood	1452703-sunny Acres, Pleasant Prairie, Waterford M, 1452703-014
Legal Description	Sunny Acres S D Lot 35

Taxing District

Township	Elkhart Township
Corporation	Goshen Community Schools

Land Description

Land Type	Acreage	Dimensions
Homesite	1	
Residential Excess	0.365	

Transfer of Ownership

Date	Name	Buyer	Document	Deed Type	Sale Price
2008-02-22	Kelly James C				
2017-12-13	Yoder E Gail				

Valuation Record

Assessment Date	Reason for Change	Land	Improvements	Total Valuation
2018-01-01	Annual Adjustment	\$29,400.00	\$89,100.00	\$118,500.00
2017-01-01	Annual Adjustment	\$29,400.00	\$82,900.00	\$112,300.00
2016-03-01	Annual Adjustment	\$29,400.00	\$82,200.00	\$111,600.00
2015-03-01	Annual Adjustment	\$29,400.00	\$77,600.00	\$107,000.00
2014-03-01	Annual Adjustment	\$29,400.00	\$73,100.00	\$102,500.00

Sales

Sale Date	Sale Price	Buyer Name	Seller Name
-----------	------------	------------	-------------

Public Utilities

Water	Y
Sewer	Y
Gas	Y
Electricity	Y
All	Y

Exterior Features

Exterior Feature	Size/Area
Patio, Concrete	160

Special Features

Description	Size/Area
-------------	-----------

Summary of Improvements

Buildings	Grade	Condition	Construction Year	Effective Year	Area
Residential Dwelling	C	A	1956	1956	1,358

Residential Dwelling

Accommodations

Bed Rooms	3
Finished Rooms	7

Plumbing

Full Baths	1
Full Baths Fixtures	
Half Baths	
Half Baths Fixtures	
Kitchen Sinks	1

Other Residential Dwelling

Heat Type	Central Warm Air
Fireplaces	
Attached Garages	384

Floors

Floor	Construction	Base	Finished
1	Wood Frame	1,358	1,358
C		350	
B		1,008	



Listing Broker (Co.) RE/MAX Results (EL106) By Steve Miller (EL832)

Office code

Individual code

Selling Broker (Co.) RE/MAX Results (EL106) By Darryl Riegsecker (EL3885)

Office code

Individual code



PURCHASE AGREEMENT (IMPROVED PROPERTY)

For use only by members of the Indiana Association of REALTORS®

1 Date: February 14, 2019

2
3 A. **BUYER:** City Of Goshen Dept Of Redevelopment ("Buyer")
4 agrees to buy the following property from the owner ("Seller") for the consideration and subject to the following terms,
5 provisions, and conditions:
6

7 B. **PROPERTY:** The property ("Property") is known as 65693 State Road 15
8 in Elkhart Township, Elkhart County, Goshen
9 Indiana, 46526-5457 (zip code) legally described as: SUNNY ACRES S D LOT 35

10 together with any existing permanent improvements and fixtures attached (**unless leased or excluded**), including, but
11 not limited to, electrical and/or gas fixtures, heating and central air-conditioning equipment and all attachments thereto,
12 built-in kitchen equipment, sump pumps, water softener, water purifier, gas grills, fireplace inserts, gas logs and grates,
13 central vacuum equipment, window shades/blinds, curtain rods, drapery poles and fixtures, ceiling fans and light
14 fixtures, towel racks and bars, storm doors, windows, awnings, TV antennas, wall mounts, satellite dishes, storage
15 barns, all landscaping, mailbox, garage door opener(s) with control(s) AND THE FOLLOWING: Refrigerator, range
16 electric.
17

18
19 EXCLUDES THE FOLLOWING: _____

20
21 **HOME HEATING FUEL:** Any remaining fuel stored in tank(s) to be included in the sale will be purchased by
22 Buyer at current market price measured within five (5) days prior to closing not applicable.

23 **The terms of this Agreement will determine what items are included/excluded, not the Seller's Disclosure Form,**
24 **multiple listing service or other promotional materials. All items sold shall be fully paid for by Seller at time of**
25 **closing the transaction. Buyer should verify total square footage, land, room dimensions or community amenities**
26 **if material.**

27
28 C. **PRICE:** Buyer will pay the total purchase price of (\$ see further conditions) _____
29 _____ U.S. Dollars for the Property. If Buyer obtains an appraisal of the Property, this
30 Agreement is contingent upon the Property appraising at no less than the agreed upon purchase price. If appraised
31 value is less than the agreed upon purchase price, either party may terminate this Agreement or parties may mutually
32 agree to amend the price.
33

34 D. **EARNEST MONEY:**

35 1. **Submission:** Buyer submits \$ ~~1,000.00~~ \$ 0.00 ^{DS} MB U.S. Dollars as earnest money which shall be
36 applied to the purchase price at closing. If not submitted with Purchase Agreement, Earnest money shall be
37 delivered to Escrow Agent within MB N/A hours days of acceptance of offer to purchase.
38 Unless indicated otherwise in this Agreement, the listing broker shall act as Escrow Agent and shall, after acceptance
39 of the Agreement and **within two (2) banking days of receipt of the earnest money**, deposit the earnest money
40 into its escrow account and hold it until time of closing the transaction or termination of this Agreement. Earnest money
41 shall be returned promptly to Buyer in the event this offer is not accepted. If Buyer fails for any reason to timely submit
42 Earnest Money in the contracted amount, Seller may terminate this Agreement upon notice to Buyer prior to Escrow
43 Agent's receipt of the Earnest Money.

44 2. **Disbursement:** Upon notification that Buyer or Seller intends not to perform, and if Escrow Agent is the Broker,
45 then Broker holding the Earnest Money may release the Earnest Money as provided in this Agreement. If no
46 provision is made in this Agreement, Broker may send to Buyer and Seller notice of the disbursement by certified
47 mail of the intended payee of the Earnest Money as permitted in 876 IAC 8-2-2. If neither Buyer nor Seller enters
48 into a mutual release or initiates litigation within sixty (60) days of the mailing date of the certified letter, Broker may
49 release the Earnest Money to the party identified in the certified letter. If the Escrow Agent is the Broker, Broker
50 shall be absolved from any responsibility to make payment to Seller or Buyer unless the parties enter into a Mutual
51 Release or a Court issues an Order for payment, except as permitted in 876 IAC 8-2-2 (release of earnest money).
52 Buyer and Seller agree to hold the Broker harmless from any liability, including attorney's fees and costs, for good
53 faith disbursement of Earnest Money in accordance with this Agreement and licensing regulations

65693 State Road 15, Goshen, IN 46526-5457

(Property Address)

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3. **Legal Remedies/Default:** If this offer is accepted and Buyer fails or refuses to close the transaction, without legal cause, the earnest money shall be retained by Seller for damages Seller has or will incur. Seller retains all rights to seek other legal and equitable remedies, which may include specific performance and additional monetary damages. All parties have the legal duty to use good faith and due diligence in completing the terms and conditions of this Agreement. A material failure to perform any obligation under this Agreement is a default which may subject the defaulting party to liability for damages and/or other legal remedies, which, as stated above, may include specific performance and monetary damages in addition to loss of Earnest Money.

METHOD OF PAYMENT: (Check appropriate paragraph number)

1. **CASH:** The entire purchase price shall be paid in cash, U.S. Dollars, and no financing is required. Buyer to provide proof of funds submitted with offer within _____ days of acceptance. Buyer will will not have an appraisal.

2. **NEW MORTGAGE:** Completion of this transaction shall be contingent upon the Buyer's ability to obtain a

Conventional **Insured Conventional** **FHA** **VA** **Other:** _____ first mortgage loan for _____ % of purchase price, payable in not less than _____ years, with an original rate of interest not to exceed _____ % per annum and not to exceed _____ points. Buyer shall pay all costs of obtaining financing, except _____

Any inspections and charges which are required to be made and charged to Buyer or Seller by the lender, FHA, VA, or mortgage insurer, shall be made and charged in accordance with their prevailing rules or regulations and shall supersede any provisions of this Agreement.

- 3. **ASSUMPTION: (Attach Financing Addendum)**
- 4. **CONDITIONAL SALES CONTRACT: (Attach Financing Addendum)**
- 5. **OTHER METHOD OF PAYMENT: (Attach Financing Addendum)**

TIME FOR OBTAINING FINANCING:

1. **Application:** Within 0 days after the acceptance of this Agreement, Buyer agrees to make written application for any financing necessary, to complete this transaction or for approval to assume the unpaid balance of the existing mortgage and to make a diligent effort to meet the lender's requirements and to obtain financing in cooperation with the Broker and Seller. **Buyer authorizes lender to order appraisal immediately.**

2. **Approval:** No more than 0 days after acceptance of this Agreement shall be allowed for obtaining loan approval or mortgage assumption approval. If an approval is not obtained within the time specified above, this Agreement may terminate unless an extension of time for this purpose is mutually agreed to in writing.

CLOSING: *CELL MB → of inspection report, to the Commitment Board of works, City Council and Redevelopment Commission Approvals!*

1. **DATE:** The closing of the sale (the "Closing Date") shall be on or before March 29, 2019, or within 15 days after **final approval**, whichever is later or this Agreement shall terminate unless an extension of time is mutually agreed to in writing. Any closing date earlier than the latest date above must be by mutual written agreement of the parties.

2. **FEE:** The settlement or closing fee incurred in conducting the settlement charged by the closing agent or company shall be paid by Buyer (included in allowance, if provided) Seller Shared equally.

3. **CONTINGENCY:** This Agreement:

- is not contingent upon the closing of another transaction;
- is contingent upon the closing of the **pending** transaction on Buyer's property located at _____ scheduled to close by _____.
- is contingent upon the acceptance of a Purchase Agreement on Buyer's property:

- Addendum to Purchase Agreement First Right Contingency. See attached Addendum.
- Addendum to Purchase Agreement Limited Purchase Contingency Right. See attached Addendum.

4. **GOOD FUNDS:** Notwithstanding terms to the contrary, the Parties agree that as a condition to Closing, all funds delivered to the closing agent's escrow account be in such form that the closing agent shall be able to disburse in compliance with I.C. 27-07-3.7 et. seq. Therefore, all funds from a single source of \$10,000, U.S. Dollars, or more shall be wired unconditionally to the closing agent's escrow account and all funds under \$10,000, U.S. Dollars, from a single source shall be good funds as so defined by statute. Buyer is advised that the cost incurred to wire funds on behalf of the buyer to the closing agent's escrow account for the closing of this transaction shall become an expense to the buyer and the actual cost incurred shall appear on the closing statement.

5. **WIRE FRAUD.** If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information, **EVEN IF THAT ELECTRONIC COMMUNICATION APPEARS TO BE FROM BROKER OR TITLE COMPANY**, do not respond until you verify the authenticity by direct communication with Broker or Title Company. Do not rely on telephone numbers provided in the electronic communication. Such requests may be part of a scheme to steal funds or use your identity.

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(Property Address)

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115 H. **POSSESSION:**

- 116 1. The possession of the Property shall be delivered to Buyer **at closing** **within** _____ **days beginning**
- 117 **the day after closing by** _____ **a.m.** **p.m.** **noon or** **on or before** _____ **if closed.**
- 118 For each day Seller is entitled to possession after closing, Seller shall pay to Buyer at closing \$ **100.00** U.S.
- 119 Dollars per day. If Seller does not deliver possession by the date and time required in the first sentence of this
- 120 paragraph, Seller shall pay Buyer \$ **100.00** U.S. Dollars per day as **liquidated damages** until possession
- 121 is delivered to Buyer; and Buyer shall have all other legal and equitable remedies available against the Seller.
- 122 2. **Maintenance of Property:** Seller shall maintain the Property in its present condition until its **possession** is
- 123 delivered to Buyer, subject to repairs in response to any inspection. Buyer may inspect the Property prior to closing
- 124 to determine whether Seller has complied with this paragraph. Seller shall remove all debris and personal property not
- 125 included in the sale.
- 126 3. **Casualty Loss:** Risk of loss by damage or destruction to the Property prior to the closing shall be borne
- 127 by Seller, including any deductible(s). In the event any damage or destruction is not fully repaired prior to closing,
- 128 Buyer, at Buyer's option, may either **(a) terminate this Agreement with prompt return of earnest money to**
- 129 **buyer or (b) elect to close the transaction,** in which event Seller's right to all real property insurance proceeds
- 130 resulting from such damage or destruction shall be assigned in writing by Seller to Buyer.
- 131 4. **Utilities/Municipal Services:** Seller shall pay for all municipal services and public utility charges through the day of
- 132 **possession.**

133
 134 I. **SURVEY:** Buyer shall receive a (Check one) **SURVEYOR LOCATION REPORT**, which is a survey where corner

135 markers are not set; **BOUNDARY SURVEY**, which is a survey where corner markers of the Property are set prior to

136 closing; **WAIVED**, no survey unless required by lender; at (Check one) **Buyer's expense (included in**

137 **allowance, if provided)** **Seller's expense** **Shared equally.** The survey shall (1) be received prior to closing and

138 certified as of a current date, (2) be reasonably satisfactory to Buyer, (3) show the location of all improvements and

139 easements, and (4) show the flood zone designation of the Property. If Buyer waives the right to conduct a survey, the

140 Seller, the Listing and Selling Brokers, and all licensees associated with Brokers are released from any and all liability

141 relating to any issues that could have been discovered by a survey. This release shall survive the closing.

142
 143 J. **FLOOD AREA/OTHER:** If the property is located in a flood plain, Buyer may be required to carry flood insurance at

144 Buyer's expense. Revised flood maps and changes to Federal law may substantially increase future flood insurance

145 premiums or require insurance for formerly exempt properties. Buyer should consult with one or more flood insurance

146 agents regarding the need for flood insurance and possible premium increases. Buyer may may not terminate this

147 Agreement if the Property requires flood insurance. Buyer may may not terminate this Agreement if the Property is

148 subject to building or use limitations by reason of the location, which materially interfere with Buyer's intended use of

149 the Property.

150
 151 K. **HOMEOWNER'S INSURANCE:** Completion of this transaction shall be contingent upon the Buyer's ability to

152 obtain a favorable written commitment for homeowner's insurance within _____ - _____ days after acceptance of this

153 Agreement. Buyer should consult with one or more insurance agents regarding optional, or additional, coverage.

154
 155 L. **ENVIRONMENTAL CONTAMINANTS ADVISORY/RELEASE:** Buyer and Seller acknowledge that Listing Broker,

156 Selling Broker and all licensees associated with Brokers are NOT experts and have NO special training, knowledge or

157 experience with regard to the evaluation or existence of possible lead-based paint, radon, mold and other biological

158 contaminants ("Environmental Contaminants") which might exist and affect the Property. Environmental Contaminants

159 at harmful levels may cause property damage and serious illness, including but not limited to, allergic and/or respiratory

160 problems, particularly in persons with immune system problems, young children and/or the elderly.

161
 162 Buyer is STRONGLY ADVISED to obtain inspections (see below) to fully determine the condition of the Property and its

163 environmental status. The ONLY way to determine if Environmental Contaminants are present at the Property at

164 harmful levels is through inspections.

165
 166 **Buyer and Seller agree to consult with appropriate experts and accept all risks for Environmental**

167 **Contaminants and release and hold harmless all Brokers, their companies and licensees from any and all**

168 **liability, including attorney's fees and costs, arising out of or related to any inspection, inspection result,**

169 **repair, disclosed defect or deficiency affecting the Property, including Environmental Contaminants. This**

170 **release shall survive the closing.**

171
 172 M. **INSPECTIONS: (Check one)**

173
 174 Buyer has been made aware that independent inspections disclosing the condition of the property may be conducted

175 and has been afforded the opportunity to require such inspections as a condition of this Agreement.

65693 State Road 15, Goshen, IN 46526-5457

(Property Address)

Remove MB ^{OS} GEL

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MS

- 1. **BUYER WAIVES THE RIGHT TO HAVE INDEPENDENT INSPECTIONS**
 Buyer **WAIVES** inspections and relies upon the condition of the Property based upon Buyer's own examination and releases the Seller, the Listing and Selling Brokers and all licensees associated with Brokers from any and all liability relating to any defect or deficiency affecting the Property, which release shall survive the closing. Required FHAVA or lender inspections are not included in this waiver.

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- INSPECTION/RESPONSE PERIOD:** ^{GEL}
- A. **Initial Inspection Period:** Buyer shall order all independent inspections after acceptance of the Purchase Agreement. Buyer shall have 20 ~~MS~~ days beginning the day following the date of acceptance of the Purchase Agreement to respond to the inspection report(s) in writing to Seller (see "Buyer's Inspection Response").
 - B. **Scope of Inspection:** Inspections may include but are not limited to the condition of the following systems and components: heating, cooling, electrical, plumbing, roof, walls, ceilings, floors, foundation, basement, crawl space, well/septic, water, wood destroying insects and organisms, lead-based paint (note: intact lead-based paint that is in good condition is not necessarily a hazard), radon, mold and other biological contaminants and/or the following:
 - C. **Additional Inspection:** If the **INITIAL** inspection report reveals the presence of lead-based paint, radon, mold and other biological contaminants, or any other condition that requires further examination or testing, then Buyer shall notify Seller in writing and have 10 ~~MS~~ ^{GEL} additional days from the deadline listed above to order, receive and respond in writing to all inspection reports.
 - D. **Inspection Response(s) Required:** If the Buyer does not comply with any Inspection/Response Period or make a written objection to any problem revealed in a report within the applicable Inspection/Response Period, the Property shall be deemed to be acceptable. If one party fails to respond or request in writing an extension of time to respond to the other party's Independent Inspection Response, then that inspection response is accepted. A timely request for extension is not an acceptance of the inspection response, whether or not granted. A reasonable time period to respond is required to prevent misuse of this acceptance provision. Factors considered in determining reasonable time periods include, but are not limited to, availability of responding party to respond, type and expense of repairs requested and need of responding party to obtain additional opinions to formulate a response.
 - E. **If Defect is identified:** If an Inspection Report reveals a DEFECT(S) with the Property, the Buyer must:
 1. Provide the inspection report, or relevant parts thereof, to the Seller; and
 2. Give the Seller the opportunity to remedy the defect(s).
 - F. **Seller Response to Inspection Defect:** If Seller is unable or unwilling to remedy the defect(s) to Buyer's reasonable satisfaction before closing (or at a time otherwise agreed to by the parties), then Buyer may terminate this Agreement or waive such defect(s) and the transaction shall proceed toward closing.
 - G. **DEFECT Defined:** Under Indiana law, "Defect" means a condition that would have a significant adverse effect on the value of the Property, that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises.
 - H. **Previously Disclosed Defect:** Buyer agrees that any property defect(s) previously disclosed by Seller, or routine maintenance and minor repair items mentioned in any report, shall not be a basis for termination of this agreement.
 - I. **Inspection Release:** Buyer releases and holds harmless all Brokers and their companies from any and all liability, including attorney's fees and costs, arising out of or related to any inspection, inspection result, repair, disclosed defect or deficiency affecting the Property, including but not limited to lead-based paint, radon, mold and other biological contaminants. This release shall survive the closing.

- 3. **PROPERTY IS SOLD "AS IS".** See Attached Addendum.

N. **LIMITED HOME WARRANTY PROGRAM:**
 Buyer acknowledges the availability of a LIMITED HOME WARRANTY PROGRAM with a deductible paid by Buyer which will will not be provided at a cost not to exceed \$ _____ U.S. Dollars charged to Buyer Seller and ordered by Buyer Seller. Buyer and Seller acknowledge this LIMITED HOME WARRANTY PROGRAM may not cover any pre-existing defects in the Property nor replace the need for an independent home inspection. Broker may receive a fee from the home warranty provider and/or a member benefit. The Limited Home Warranty Program is a contract between Buyer/Seller and the Home Warranty Provider. The Parties agree that Brokers and their companies shall be released and held harmless in the event of claims disputes with the Home Warranty Provider.

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(Property Address)

240 O. **DISCLOSURES: (Check one)**

241 1. Buyer has has not not applicable received and executed SELLER'S RESIDENTIAL REAL ESTATE
242 SALES DISCLOSURE.

243 2. Buyer has has not not applicable received and executed a LEAD-BASED PAINT CERTIFICATION
244 AND ACKNOWLEDGEMENT.
245

246 P. **TITLE APPROVAL:** Prior to closing, Buyer shall be furnished with a **title insurance commitment for the**
247 **most current and comprehensive ALTA Owner's Title Insurance Policy available** in the amount of the purchase price or
248 **an abstract of title continued to date**, showing marketable title to Property in Seller's name. Seller must convey title free
249 and clear of any encumbrances and title defects, with the exception of any mortgage assumed by Buyer and any restrictions
250 or easements of record not materially interfering with Buyer's intended use of the Property. A title company, at Buyer's
251 request, can provide information about availability of various additional title insurance coverages and endorsements and the associated
252 costs.

253 **Owner's Title Insurance Premium** and that portion of Title Service Fees incurred to prepare the Owner's Policy
254 (including title search and examination and commitment preparation), to be paid by Buyer (included in allowance,
255 if provided) Seller Shared equally.
256

257 **Lender's Title Insurance Premium** and that portion of Title Service Fees incurred to prepare the Lender's Policy
258 (including title search and examination and commitment preparation), if applicable, to be paid by Buyer (included in
259 allowance, if provided) Seller Shared equally Other _____
260
261

262 The parties agree that Seller Buyer will select a title insurance company to issue a title insurance policy and will
263 order the commitment immediately or other: _____
264
265

266 Pursuant to Federal and State Law, Seller cannot make Seller's selection of a title insurance provider a condition of this
267 Agreement.
268

269 Seller agrees to pay the cost of obtaining all other documents necessary to perfect title (including the cost of the deed
270 and vendor's affidavit), so that marketable title can be conveyed.
271

272 Q. **TAXES: (Check appropriate paragraph number)**

273 1. Buyer will assume and pay all taxes on the Property beginning with the taxes due and payable
274 on _____, _____, and all taxes due thereafter. At or before closing, Seller
275 shall pay all taxes for the Property payable before that date.
276

277 2. All taxes that have accrued for any **prior calendar year** that remain unpaid shall be paid by Seller either to the
278 County Treasurer and/or the Buyer in the form of a credit at closing. All taxes that have accrued for the **current**
279 **calendar year** shall be prorated on a calendar-year basis as of the day immediately prior to the Closing Date.
280

281 **For purposes of paragraph 1 and 2:** For the purpose of determining the credit amount for accrued but unpaid taxes,
282 taxes shall be assumed to be the same as the most recent year when taxes were billed based upon *certified* tax rates.
283 This shall be a final settlement.
284

285 3. **FOR RECENT CONSTRUCTION OR OTHER TAX SITUATIONS.** Seller will give a tax credit of
286 \$ _____ U.S. Dollars to Buyer at closing. This shall be a final settlement.
287

288 **WARNING:**

289 *The succeeding year tax bill for recently constructed homes or following reassessment periods may greatly exceed
290 the last tax bill available to the closing agent.
291

292 *Buyer acknowledges Seller's tax exemptions and/or credits may not be reflected on future tax bills.
293

294 *Buyer may apply for current-year exemptions/credits at or after closing.
295

296 R. **PRORATIONS AND SPECIAL ASSESSMENTS:** Insurance, if assigned to Buyer, interest on any debt assumed or
297 taken subject to, any rents, all other income and ordinary operating expenses of the Property, including but not limited
298 to, public utility charges, shall be prorated as of the day immediately prior to the Closing Date. Seller shall pay any
299 special assessments applicable to the Property for municipal improvements previously made to benefit the Property.
300 Seller warrants that Seller has no knowledge of any planned improvements which may result in assessments and that
301 no governmental or private agency has served notice requiring repairs, alterations or corrections of any existing
302 conditions. Public or municipal improvements which are not completed as of the date above but which will result in a

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(Property Address)

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303 lien or charge shall be paid by Buyer. Buyer will assume and pay all special assessments for municipal improvements
304 completed after the date of this Agreement.
305

306 S. **TIME:** Time is of the essence. Time periods specified in this Agreement and any subsequent Addenda to the
307 Purchase Agreement are calendar days and shall expire at 11:59 PM of the date stated unless the parties agree in
308 writing to a different date and/or time.
309

310 **Note: Seller and Buyer have the right to withdraw any offer/counter offer prior to written acceptance and**
311 **delivery of such offer/counter offer.**
312

313 T. **HOMEOWNERS ASSOCIATION/CONDOMINIUM ASSOCIATION ("Association"):** Documents for a mandatory
314 membership association shall be delivered by the Seller to Buyer within 5 days after acceptance of this
315 Agreement, but not later than 10 days prior to closing pursuant to I.C. 32-21-5-8.5. Brokers are not responsible for
316 obtaining, verifying or interpreting this information. The parties agree that Brokers and their companies shall be
317 released and held harmless from any and all liability arising out of or related to these documents.
318

319 If the Buyer does not make a written response to the documents within 5 days after receipt, the documents
320 shall be deemed acceptable. In the event the Buyer does not accept the provisions in the documents and such
321 provisions cannot be waived, this Agreement may be terminated by the Buyer and the earnest money deposit shall be
322 refunded to Buyer promptly. Any approval of sale required by the Association shall be obtained by the Seller, in writing,
323 within 5 days after Buyer's approval of the documents. Fees charged by the "Association", or its management
324 company, for purposes of verification of good standing and/or transfer of ownership shall be shared equally by Buyer
325 and Seller. Start-up or one time reserve fees, if any, shall be paid by Buyer.
326

327 **Buyer acknowledges that in every neighborhood there are conditions which others may find objectionable. Buyer shall**
328 **therefore be responsible to become fully acquainted with neighborhood and other off-site conditions that could affect the**
329 **Property.**
330

331 U. **ATTORNEY'S FEES:** Any party to this Agreement who is the prevailing party in any legal or equitable
332 proceeding against any other party brought under or with relation to the Agreement or transaction shall be additionally
333 entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.
334

335 V. **ADDITIONAL PROVISIONS:**
336

- 337 1. Unless otherwise provided, any proration's for rent, taxes, insurance, damage deposits, association
338 dues/assessments, or any other items shall be computed as of the day immediately prior to the Closing Date.
339
- 340 2. Underground mining has occurred in Indiana, and Buyers are advised of the availability of subsidence
341 insurance. Broker is not responsible for providing or verifying this information.
342
- 343 3. The Indiana State Police has created a registry of known meth contaminated properties which can be found at
344 www.in.gov/meth. Click on "Clan Lab Addresses." Broker is not responsible for providing or verifying this information.
345
- 346 4. The Indiana Sheriff's Sex Offender Registry (www.indianasheriffs.org) exists to inform the public about the
347 identity, location and appearance of sex offenders residing within Indiana. Broker is not responsible for providing or
348 verifying this information.
349
- 350 5. Conveyance of this Property shall be by general Warranty Deed, or by _____
351 subject to taxes, easements, restrictive covenants and encumbrances of record, unless otherwise agreed.
352
- 353 6. If it is determined Seller is a "foreign person" subject to the Foreign Investment in Real Property Tax Act,
354 Seller will pay applicable tax obligation.
355
- 356 7. Any notice required or permitted to be delivered shall be deemed received when personally delivered, transmitted
357 electronically or digitally or sent by express courier or United States mail, postage prepaid, certified and return
358 receipt requested, addressed to Seller or Buyer or the designated agent of either party.
359
- 360 8. This Agreement shall be construed under and in accordance with the laws of the State of Indiana and is
361 binding upon the parties' respective heirs, executors, administrators, legal representatives, successors, and assigns.

65693 State Road 15, Goshen, IN 46526-5457

(Property Address)

- 362 9. In case any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the
- 363 invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
- 364
- 365 10. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or
- 366 written or oral agreements between the parties' respecting the transaction and cannot be changed except by their
- 367 written consent.
- 368
- 369 11. All rights, duties and obligations of the parties shall survive the passing of title to, or an interest in, the
- 370 Property.
- 371
- 372 12. Broker(s) may refer Buyer or Seller to other professionals, service providers or product vendors, including lenders,
- 373 loan brokers, title insurers, escrow companies, inspectors, pest control companies, contractors and home warranty
- 374 companies. Broker(s) does not guarantee the performance of any service provider. Buyer and Seller are free to select
- 375 providers other than those referred or recommended to them by Broker(s). The Parties agree that Brokers and their
- 376 companies shall be released and held harmless in the event of claims disputes with any service provider.
- 377
- 378 13. By signing below, the parties to this transaction acknowledge: 1) receipt of a copy of this Agreement; and 2)
- 379 information regarding this transaction may be published in a listing service, Internet or other advertising media.
- 380
- 381 14. Any amounts payable by one party to the other, or by one party on behalf of the other party, shall not be owed
- 382 until this transaction is closed.
- 383
- 384 15. Buyer and seller consent to receive communications from Broker(s) via telephone, U.S. mail, email, text message
- 385 and facsimile at the numbers/addresses provided to Broker(s) unless Buyer and Seller notify Broker(s) in writing to the
- 386 contrary.
- 387
- 388 16. Buyer discloses to Seller that Buyer holds Indiana Real Estate License # _____.
- 389
- 390 17. Where the word "Broker" appears, it shall mean "Licensee" as provided in I.C.25-34.1-10-6.8.
- 391

392 W. **FURTHER CONDITIONS (List and attach any addenda):** The selling price is to be the average of 2 appraisals
 393 with the buyer picking one appraiser and the seller picking the other. The selling price not to be higher than the
 394 159,000.00 which is the asking price. The final purchase price to be signed off of by the seller. Condition final
 395 approval on purchase agreement by Goshen Redevelopment, Board of works + Safety and
 396 Goshen Council, as needed.
 397 Seller shall have 48 hours to terminate the agreement upon final
 398 determination of the purchase price.
 399
 400
 401
 402

- 403 X. **CONSULT YOUR ADVISORS:** Buyer and Seller acknowledge they have been advised that, prior to signing this
- 404 document, they may seek the advice of an attorney for the legal or tax consequences of this document and the transaction
- 405 to which it relates. In any real estate transaction, it is recommended that you consult with a professional, such as a civil
- 406 engineer, environmental engineer, or other person, with experience in evaluating the condition of the Property.
- 407
- 408 Y. **ACKNOWLEDGEMENTS:** This is is not a limited agency transaction. Buyer and Seller acknowledge that
- 409 each has received agency office policy disclosures, has had agency explained, and now confirms all agency relationships.
- 410 Buyer and Seller further acknowledge that they understand and accept agency relationships involved in this transaction. By
- 411 signature below, the parties verify that they understand and approve this Purchase Agreement and acknowledge receipt of a
- 412 signed copy.
- 413
- 414 Z. **EXPIRATION OF OFFER:** Unless accepted in writing by Seller and delivered to Buyer by _____ 9:00
- 415 A.M. P.M. Noon, on February 18, 2019, this Purchase Agreement shall be null
- 416 and void and all parties shall be relieved of any and all liability or obligations.
- 417

418 This Agreement/contract together with any and all subsequent forms, amendments and addenda may be executed

419 simultaneously or in two or more counterparts, each of which shall be deemed an original but all of which together shall

420 constitute one and the same instrument. The parties agree that this Agreement, together with any and all subsequent

421 forms, amendments and addenda may be transmitted between them electronically or digitally. The parties intend that

422 electronically or digitally transmitted signatures constitute original signatures and are binding on the parties. The

423 original documents shall be promptly delivered, if requested.

65693 State Road 15, Goshen, IN 46526-5457

(Property Address)

424 Mark Brinson
 425 BUYER'S SIGNATURE _____ DATE _____ BUYER'S SIGNATURE _____ DATE _____
 426 Mark Brinson
 427 City Of Goshen Dept Of Redevelopment
 428 PRINTED _____ PRINTED _____
 429

430 AA. SELLER'S RESPONSE: (Check appropriate paragraph number):
 431
 432 On 2/18/19, at _____ A.M. P.M. Noon
 433
 434 1. The above offer is Accepted.
 435
 436 2. The above offer is Rejected.
 437
 438 3. The above offer is Countered. See Counter Offer. Seller should sign both the Purchase Agreement and the Counter
 439 Offer.
 440

441 DocuSigned by:
 442 Gail E. Yoder 2/18/2019
 443
 444 SELLER'S SIGNATURE _____ DATE _____ SELLER'S SIGNATURE _____ DATE _____
 445 Gail E. Yoder
 446
 447 PRINTED _____ PRINTED _____



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65693 State Road 15, Goshen, IN 46526-5457

(Property Address)

Page 8 of 8 (Purchase Agreement)
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RESOLUTION 11-2019

Approve and Authorize Execution of Agreement between Redevelopment Commission and Goshen Theater, Inc.

WHEREAS the Redevelopment has committed \$850,000 forgivable loan to the Goshen Theater, Inc. for renovations. Also included in this agreement is the existing \$150,000 loan for acquisition.

WHEREAS this agreement includes certain benchmarks that must be met to qualify for the forgiveness of both obligations which are included in the agreement.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Redevelopment Commission approves the terms and conditions of the agreement with Goshen Theater, Inc. which is attached to and made a part of this resolution.

PASSED and ADOPTED on February 21, 2019

Thomas W. Stump, President

Andrea Johnson, Secretary



**Department of Community Development
CITY OF GOSHEN**

204 East Jefferson Street, Suite 6 • Goshen, IN 46528-3405

Phone (574) 537-3824 • Fax (574) 533-8626

communitydevelop@goshencity.com • www.goshenindiana.org

Memo

To: Redevelopment Commission

From: Mark Brinson

Subject: Goshen Theater Agreement

Date: February 18, 2019

At the February 12 Redevelopment Commission meeting, a draft agreement between the Redevelopment Commission and Goshen Theater, Inc. was discussed. The revised agreement includes changes that were suggested during the previous meeting. The agreement provides a framework for the forgivable loan, in the amount of \$850,000, that has been previously committed to the Theater renovation project. The agreement also includes the forgiveness of the existing \$150,000 loan, requested by the Theater Board, as they have successfully completed their capital campaign in excess of \$5 million which will fund the first phase of improvements and a permanent endowment for operations.

The agreement also includes certain benchmarks that must be met to qualify for the forgiveness of both obligations. Terms of forgiveness for each loan are generally as follows:

\$850,000 Loan for Renovations

1. \$425,000 will be forgiven upon completion of the scope of work described in Exhibit A of the agreement.
2. \$85,000 per year will be forgiven each year after the renovation work has been completed.
3. The theater is to be maintained as a public venue for arts and entertainment and open to the general public, for at least 51% of the time.

\$150,000 Loan for Acquisition

1. Upon completion of phase one of the renovations, \$30,000 of the loan will be forgiven each year.
2. The theater is to be maintained as a public venue for arts and entertainment and open to the general public, for at least 51% of the time.

AGREEMENT FOR FUNDING FOR REDEVELOPMENT OF THE THEATER

THIS AGREEMENT is made and entered into on _____, 2019 by and between **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, acting through the Goshen Redevelopment Commission (Redevelopment), and **Goshen Theater, Inc.** an Indiana nonprofit corporation (Theater).

WHEREAS Theater owns and is redeveloping and remodeling the Goshen Theater located at 216 South Main Street, Goshen, Indiana.

WHEREAS Redevelopment agrees to request that the Goshen Common Council and Goshen Economic Development Commission (EDC) authorize a loan to Theater in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000).

WHEREAS Redevelopment agrees to provide EDC with Eight Hundred Fifty Thousand Dollars (\$850,000) from the River Race/US 33 Tax Increment Financing (TIF) District to fund the loan to Theater.

WHEREAS Redevelopment will forgive repayment of the loan if Theater meets certain conditions set forth in this agreement.

In consideration of the terms, covenants and conditions to be kept and performed by the respective parties, Redevelopment and Theater agree to the following:

TAX INCREMENT FINANCING LOAN

Redevelopment agrees to loan Eight Hundred Fifty Thousand Dollars (\$850,000) from the River Race/US 33 TIF District to Theater to fund the remodeling, redevelopment and rehabilitation of the Goshen Theater in manner set forth in this agreement.

THEATER REAL ESTATE

The real estate to be remodeled, redeveloped and rehabilitated is located at 216 South Main Street, Goshen, Indiana, and is more particularly described as follows:

Lot Number One Hundred One (101) as the said Lot is known and designated on the recorded Original Plat of the Town, now City of Goshen, Indiana; said Plat being recorded in Plat Book 1, page 17 of the records in the Office of the Recorder of Elkhart County, State of Indiana.

Parcel No. 20-11-09-415-005.000-015

LOAN REPAYMENT/FORGIVENESS

- (1) The loan will be due and payable in full on December 31, 2025 except as provided below. The loan will not incur interest until January 1, 2026 at which time interest will accrue at five percent (5%) per annum.
- (2) At such time that the remodeling, redevelopment and rehabilitation of 216 South Main Street as described in Exhibit A attached to this agreement is completed, Redevelopment will forgive the repayment of Four Hundred Twenty-five Thousand Dollars (\$425,000) of the loan.
- (3) In addition, Redevelopment will forgive Eighty-five Thousand Dollars (\$85,000) of the loan each year that the facility at 216 South Main Street is used as a theater to benefit the general public and is owned by a nonprofit entity. The first Eighty Five Thousand Dollar (\$85,000.00) forgiveness will occur one (1) year after the remodeling items listed in Exhibit A have been completed and each year thereafter until the entire loan is forgiven.
- (4) If the theater is sold or leased to another entity before January 1, 2026, Redevelopment must approve such sale before the sale takes effect. Redevelopment will not approve any sale before January 1, 2026 that is not to a not for profit entity who agrees to use the facility for performances, concerts, shows, and exhibitions which are open for viewing to the general public at least fifty-one percent (51%) of the time.
- (5) Redevelopment must approve any sale or lease of the theater real estate on or after January 1, 2026; however Redevelopment will not unreasonably withhold such approval if the new owner will use the facility at least fifty-one percent (51%) of the time for performances, concerts, shows, and exhibitions open for viewing to the general public. Any subsequent owner shall be subject to the requirements of this provision until December 31, 2045.

PROJECT DESCRIPTION

Phase one of the remodeling, redevelopment and rehabilitation of 216 South Main Street shall consist of the items in Exhibit A attached to this agreement. Any change or modification to Exhibit A must be approved by Redevelopment. The parties acknowledge that Theater may elect to do work in addition to the work listed in Exhibit A. The failure to finish such other work will not delay Redevelopment's obligation to forgive Four Hundred Twenty Five Thousand Dollars (\$425,000.00) of the loan.

The remodeling, redevelopment and rehabilitation of 216 South Main Street is estimated to cost Four Million Dollars (\$4,000,000.00). The costs in excess of Eight Hundred Fifty Thousand Dollars (\$850,000) will be provided by other sources.

PRIOR LOAN

- (1) On March 6, 2014 Redevelopment loaned Theater One Hundred Fifty Thousand Dollars (\$150,000.00) to provide partial funding for Theater acquisition of 216 S. Main Street. In March of 2018 Redevelopment and Theater agreed to modify the terms of repayment of the March 6, 2014 loan. The amendment provided that no payment of loan principal or interest would be due until July 1, 2020 and that if Phase One (1) of the theater renovations were completed by July 1, 2020 the obligation to pay principal and interest on March 6, 2014 would be delayed until July 1, 2022.
- (2) Repayment of the March 6, 2014 loan is now further modified. If Phase One (1) of the renovations is completed by July 1, 2020, on July 1, 2021 all accrued interest and Thirty Thousand Dollars (\$30,000.00) of the original loan will be forgiven.
- (3) As long as the theater is used at least fifty-one percent (51%) of the time for performances, concerts, shows, and exhibitions which are open to the general public Redevelopment will forgive Thirty Thousand Dollars (\$30,000.00) of the principal of the loan on July 1, 2020 and will forgive Thirty Thousand Dollars (\$30,000.00) each July 1st there after until the entire One Hundred Fifty Thousand Dollars (\$150,000.00) loan is forgiven.

ADDITIONAL APPROVALS REQUIRED

The Goshen Common Council and the EDC must also approve the loan and issuance of an Economic Development Commission Note which is the vehicle to provide funding for the loan.

ADDITIONAL DOCUMENTATION REQUIRED

Redevelopment and Theater acknowledge that additional documentation may be required to be executed by both parties, including, but not necessarily limited to Economic Development Commission Note and additional River Race/US 33 loan documentation.

NOTICES

Any notice required by this agreement to be made or given to the parties shall be enclosed in an envelope with sufficient postage to ensure delivery and be deposited in the United States mail addressed to:

Redevelopment: City of Goshen, Indiana
 Attention: Legal Department
 204 East Jefferson Street, Suite 2
 Goshen, IN 46528

Theater: Goshen Theater, Inc.
 Attention: Terri Wentz, Registered Agent
 216 South Main Street
 Goshen, IN 46526

WAIVER OF BREACH

The waiver by either party of a breach of any provision of this agreement shall not operate or be construed as a waiver of any subsequent breach.

MODIFICATION

No change or modification of any term of this agreement shall be valid unless it is in writing and signed by both Redevelopment and Theater.

APPLICABLE LAW AND VENUE

This agreement is governed by the laws of the State of Indiana, and any action to enforce the terms and conditions of this agreement shall be initiated and heard in Elkhart, County, Indiana.

COSTS AND ATTORNEY FEES

In the event legal proceedings are instituted to enforce the terms of this agreement, the defaulting party shall pay to the non-defaulting party all costs and expenses of the legal proceedings, including reasonable attorney fees.

BINDING EFFECT

All provisions, covenants, terms and conditions of the agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

SEVERABILITY

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be enforced in accordance with applicable law. The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision of the agreement.

ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between Redevelopment and Theater.

IN WITNESS WHEREOF, the parties have set their hands to this agreement on _____, 2019.

City of Goshen, Indiana
Goshen Redevelopment Commission

Goshen Theater, Inc.

Thomas W. Stump, President

Everett Thomas, President

By: _____
Printed: _____
Secretary

By: _____
Printed: _____
Title: _____

EXHIBIT A

Project Description

- (1) Accessibility improvements
- (2) Elevator and chase, handicapped unisex restrooms – three (3) levels, elevator lobby
- (3) New public restrooms
- (4) Basement **front of house**: public restrooms, family restrooms, circulation
- (5) New sewer tap on Main Street
- (6) Partial fire suppression system
- (7) New service tap on Main Street and fire pump, public restrooms area, main level lobbies
- (8) Stage and house rigging and curtains
- (9) Stage riggings, curtains, visitor lighting truss hoists and catwalk
- (10) New electrical service
- (11) 800 amp service, subpanels and disconnects
- (12) Theatrical lighting improvements
- (13) Stage lighting, dimmers, central booth, control console, box booms
- (14) Auditorium improvements
- (15) Main level wheelchair positions, balcony riser reconstruction and safety railings
- (16) Stage house improvements
- (17) New thrust stage, under-stage demo and cleanup, new on-stage restroom
- (18) New sound reinforcement systems
- (19) Speakers, amplifiers, controls
- (20) Lobby expansion
- (21) Box office, social lobby, lounge, concession area
- (22) Star dressing room remodeling
- (23) New fire alarm system
- (24) Main Street façade improvement to include removal of the contemporary stone veneer to reveal the original masonry façade. Restoration to repair rusted lintels and renovate the original masonry façade. Renovate transom panels at store fronts and removal of the existing ticket booth and replacement with new double doors. Masonry repair is needed for the deteriorating façade and a small roof covering the brick cornice will need replaced. The intent is to restore the appearance to what was originally in place for the building.