

RESOLUTION 2018-035

PASSED: MARCH 26, 2018

AUTHORIZING AN FY2018 TAX INCREMENT FINANCING AGREEMENT WITH PRESERVATION OF THE EGYPTIAN THEATRE FOR FACILITY IMPROVEMENTS TO THE EGYPTIAN THEATRE IN AN AMOUNT NOT TO EXCEED \$100,000 BEGINNING MARCH 26, 2018, THROUGH DECEMBER 31, 2018.

WHEREAS, the City of DeKalb is a home-rule municipal corporation with all power and authority derived under the law; and,

WHEREAS, the City of DeKalb is actively engaged in economic development efforts to attract visitors to the community and improve the quality of life for its residents through support of the arts; and,

WHEREAS, the Egyptian Theatre is a unique destination and gathering place for the community; and,

WHEREAS, the Preservation of the Egyptian Theatre has requested funding to support capital improvements to the Egyptian Theatre,


BE IT RESOLVED BY THE CITY COUNCIL of the City of DeKalb, Illinois, as follows:

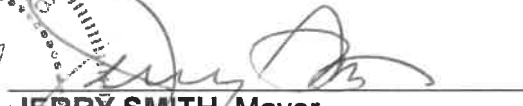
Section 1. That the Mayor of the City of DeKalb be authorized and directed to execute an Agreement with P.E.T. for TIF funds in the amount of One Hundred Thousand Dollars (\$100,000) for FY2018 for facility improvements at the Egyptian Theatre, a copy of which is attached hereto and made a part hereof as Exhibit "A," subject to such changes as shall be acceptable to the Mayor on the advice of the City Manager.

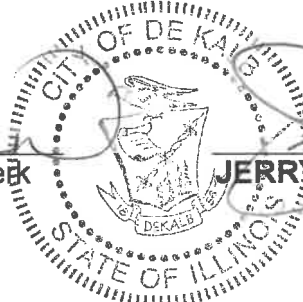
Section 2. That the City Clerk of the City of DeKalb be authorized and directed to attest the Mayor's signature.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 26th day of March, 2018 and approved by me as Mayor on the same day. Passed by a 7-1 roll call vote. Aye: Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: Jacobson.

ATTEST:


SUSANNA HERRMANN, City Clerk


JERRY SMITH, Mayor



The seal of the City of DeKalb, Illinois, is circular with a double border. The outer border contains the text "CITY OF DE KALB" at the top and "STATE OF ILLINOIS" at the bottom. The inner border contains "DEKALB" at the bottom. In the center is a shield with a plow, a sheaf of wheat, and a bundle of cotton, with a banner below it.

EXHIBIT A**FY2018 EGYPTIAN THEATRE
TIF AGREEMENT**

AGREEMENT made this 27th day of March, 2018, by and between the City of DeKalb, Illinois, an Illinois Municipal Corporation, (hereinafter referred to as "City") and the Preservation of the Egyptian Theatre, Inc. (hereinafter referred to as "P.E.T."), a not for profit corporation.

RECITALS

WHEREAS, the City is implementing a Tax Increment Redevelopment Plan (hereinafter referred to as the "Plan") pursuant to the Illinois Tax Increment Allocation Redevelopment Act (hereinafter referred to as the "Act"); and,

WHEREAS, the City wishes to assist other agencies with projects that will enhance the overall redevelopment of the project area and the community; and,

WHEREAS, P.E.T. is a local not for profit agency and needs assistance with improvements at the facility located within the Redevelopment Project Area covered by the Plan; and,

WHEREAS, said building improvements are eligible redevelopment project costs under the Act; and,

WHEREAS, to assist P.E.T. with these redevelopment projects thereby promoting the goals and objectives of the tax increment finance program of the City, the City desires to grant to the P.E.T. funding in a cumulative amount not to exceed One Hundred Dollars (\$100,000) for Fiscal Year 2018 to pay for projects as they are identified herein; and

NOW THEREFORE, the parties agree as follows:

I. FUNDING. For Fiscal Year 2018 the City shall grant to P.E.T. an amount not to exceed One Hundred Thousand Dollars (\$100,000). These monies shall be used to pay the invoices associated with the projects identified in the letter of request for funding, attached as Attachment "A". All invoices for work associated with the identified projects completed in Fiscal Year 2018 shall be forwarded to the City of DeKalb no later than January 15, 2019.

P.E.T. hereby certifies that no portion of the monies to be received from the City through this Agreement shall be used for payment of any debt owed by the P.E.T. at the time of execution of this document nor for any other purpose than the purposes which are specifically provided for payment by the City as identified within this agreement. P.E.T. further agrees and acknowledges that it shall comply with all applicable laws and regulations governing the use of the funds allocated herein.

II. ELIGIBLE USE OF FUNDS: All monies allocated by the City to P.E.T. through its Tax

Increment Finance program shall be used solely and exclusively for expenditures related to the projects identified in Attachment "A".

All funds authorized to be utilized in accordance with this Agreement shall be applied to the projects listed on Attachment "A". In the event that P.E.T. wishes to deviate from this list of projects, it shall submit the same to the City Manager for consideration. The City Manager may: 1) approve of such alternate project(s); b) reject such alternate project(s) and require adherence to the projects listed in Attachment "A"; or, 3) require the same to be submitted to the City Council for review and consideration, and for amendment of this Agreement.

P.E.T. hereby certifies it shall comply with all provisions for the public bidding of projects whose cost shall exceed twenty thousand dollars (\$20,000) and shall obtain a minimum of three (3) cost quotes for all projects under that amount, unless specifically permitted otherwise by the City of DeKalb.

P.E.T. certifies that all contractors employed to complete the improvements described herein shall pay their employees the appropriate prevailing wage as provided in the State of Illinois Prevailing Wage Act. Further, Owner agrees and acknowledges that: 1) it shall have all contractors and bidders complete a set of Certifications in the form attached hereto as Attachment "B".

III. PAYMENT. All requests for payment of bills associated with the work noted in Section II this Agreement shall first be submitted in writing to the Economic Development Planner for the City of DeKalb, who shall be responsible for the timely review and approval of all requests for payment, and shall be charged with the oversight provisions contained within this Agreement. The City of DeKalb is obligated to reimburse only those TIF eligible expenses incurred with all applicable requirements and to the extent that budgeted funds are available.

IV. STATUS REPORT. P.E.T. shall make an oral year end status report to the City Council no later than the second City Council meeting in November 2018 which shall summarize all activities and rehabilitation projects undertaken by the organization during the term of this Agreement.

V. FAILURE TO PERFORM. In the event that either party fails to perform any of its obligations under this Agreement, if the non-defaulting party delivers written notice of nonperformance to the defaulting party and the defaulting party fails or refuses to cure the default within 28 days of receipt of the written notice of default, then the non-defaulting party may declare.

VI. EQUAL OPPORTUNITY. P.E.T. shall not discriminate in its employment, operations, or business practices on the basis of race, creed, color, sex, military service status, age, national origin, matriculation, sexual orientation or disability.

VII. DRUG FREE WORKPLACE. P.E.T. shall operate under the terms and conditions of the City's adopted Drug Free Workplace policy during the term of this Agreement.

VIII. SUBMISSION OF ANNUAL BUDGET, YEAR END FINANCIAL STATEMENTS, AUDITOR'S REPORT & MEETING MINUTES: P.E.T. shall annually submit a copy of their approved annual budget, year-end financial statements, Auditor's Report and copies of any board meeting minutes of any meeting where the receipt or use of City funding is discussed or acted upon within thirty (30) days of the approval of such documents.

IX. INSURANCE AND INDEMNIFICATION: P.E.T. agrees that it shall indemnify, defend and hold harmless the City, its agents, employees, contractors, elected and appointed officials, and related parties from any and all claims of any nature relating to the use, maintenance or operation of the Egyptian Theater, the funding of any expenses contemplated by this Agreement, the conduct of any repairs or improvements to the Egyptian Theater, or in any way relating to or arising out of this Agreement or the funding contemplated herein. Any defense or indemnity of the City under the terms of this Agreement shall be performed by parties acceptable to the City in its discretion. Further, P.E.T. shall provide the City of DeKalb with a certificate of insurance naming the City as additional primary insured without right of subrogation, on a policy of insurance for commercial general liability, from an issuer and with policy limits acceptable to the City Manager. Such insurance shall be maintained for the full duration of this Agreement. P.E.T. shall also require any contractors performing work, maintenance, repairs or upgrades to the Egyptian Theater to provide adequate and appropriate insurance which names P.E.T. and the City of DeKalb as additional primary insureds without right of subrogation. Further, P.E.T. shall provide and maintain any form of insurance required by law, and the City may demand proof of such other insurance upon request.

X. TERM OF AGREEMENT. This Agreement shall be in effect from March 26, 2018, to December 31, 2018.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date so shown at the beginning.

CITY OF DEKALB


Jerry Smith, Mayor
Susanna Herlmann, City Clerk

PRESERVATION OF THE EGYPTIAN
THEATRE


Daniel Schewe, Board President

Attachment A



City of DeKalb
200 South 4th Street
DeKalb, IL 60115

March 17, 2018

Mayor Jerry Smith,

I am writing to request funding from the City of DeKalb TIF fund for FY 2018 in the amount of \$100,000 and request that remaining funds from previous fiscal years be rolled over as allowed in our funding agreements.

Attached is our list of capital expenditures and estimated costs planned for FY 2018. Due to the unique nature of the historic Egyptian Theatre, unexpected emergency repairs do occur throughout the year. For that reason, we request that we have the ability to request to the City Manager for this funding to be used for an unexpected repair if that should occur.

We will move forward with all of these projects upon funding approval from City Council and plan to have them complete before the end of FY 2018. We would like to request that our funding agreement continue to include a rollover of funding from year to year in case of unforeseen delays in completing a project.

On behalf of the Egyptian Theatre Board of Directors, all of our volunteers, our staff, patrons and donors I want to thank the City of DeKalb for its continued support of the historic Egyptian Theatre. We are proud of the positive impact we have made on this community and the downtown. We look forward to continued growth and prosperity in years to come.

Sincerely,

Alex Nerad

Alex Nerad
Executive Director

Attachment "A" (continued)

**List of Capital Expenditures for the Egyptian Theatre
FY 2018**

Expenses Estimated

Stage rigging repairs \$2,500

Boiler repairs \$2,500

Conversion of stage lighting to LED \$20,000

Conversion of auditorium lighting to LED \$30,000

Install fall restraint safety system for front of house truss \$2,500

Replace front of house lighting truss raceway and electrical cabling \$25,000

Plaster repairs in auditorium \$10,000

Façade repairs and restoration \$7,500

Attachment B

Bidder Certifications

Sexual Harassment: The Bidder certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Bidder certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status : The Bidder certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Bidder certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Bidder is an individual, the Bidder certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Bidder certifies that it is not barred pursuant to 30 Illinois Compiled Statutes 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Bidder certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Bidder certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Bidder. The Bidder is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/ido/. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated.

Drug Free Workplace : The Bidder certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Bidders, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Bidder further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635

Responsible Bidder Requirements: The Bidder certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and

training, if applicable.

Non-Discrimination, Certification, and Equal Employment Opportunity : The Bidder agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Bidder shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Bidder agrees to incorporate this clause into all subcontracts under this Contract.

International Boycott: The Bidder certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (30 ILCS 582).

Record Retention and Audits: If 30 Illinois Compiled Statutes 500/20-65 requires the Bidder (and any subBidders) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Bidder agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Bidder certifies that he/she/it is a: United States Citizen or Corporation ___ Resident Alien ___ Non-Resident Alien The Internal Revenue Service requires that taxes be withheld on payments made to non resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Bidder certifies that its Federal Tax Payer Identification Number or Social Security Number is 36-3011960 and is doing business as a (check one): ___ Individual ___ Real Estate Agent ___ Sole Proprietorship ___ Government Entity ___ Partnership Tax Exempt Organization (IRC 501(a) only) ___ Corporation ___ Not for Profit Corporation ___ Trust or Estate ___ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Bidder that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Bidder certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Bidder certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Bidder further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Bidder certifies that neither it nor any

substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Bidder further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Bidder certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Bidder certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Bidder acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction.