

LEASE PURCHASE AGREEMENT

A Sublease Between
COUNTY OF MUSKEGON

and

THE COMMUNITY FOUNDATION FOR MUSKEGON COUNTY

THIS SUBLEASE is agreed effective June 19, 1996, between COUNTY OF MUSKEGON, of 990 Terrace Street, Muskegon, Michigan ("Lessor") and THE COMMUNITY FOUNDATION FOR MUSKEGON COUNTY at 425 W. Wester Ave., Muskegon, Michigan ("Lessee").

Recitals:

A. That the County of Muskegon ("County"), Lessor herein, is the Lessee under a certain full faith and credit lease between the Muskegon County Building Authority (hereafter "CBA") and the County of the Premises described herein (hereinafter "Premises"), entered into pursuant to and in the exercise of the authority granted by law to the Muskegon County Building Authority.

B. That the Building Authority Act of the State of Michigan and the said Lease (hereinafter "Main Lease"), provide for transfer of title to the County/Lessor upon final payment of certain CBA bonds (the "bonds") which have been or will be issued to finance certain improvements (the "Project") in the project premises (not included in this lease), the subject of a separate sublease for the Project, executed by the parties this date.

C. The parties intend that the Foundation, Lessee hereunder, shall operate, maintain and repair the premises (not part of the County Building Authority project premises), during the entire term of this Sublease.

THE PARTIES AGREE AS FOLLOWS:

1. Inclusion of Recitals. The recitals set forth above are considered part and parcel, and not separate from the terms of this Sublease.

2. Leased Premises. In consideration of the payment of rentals and the fulfillment of the covenants herein contained, Lessor hereby leases to Lessee, and Lessee hereby hires and takes from Lessor the premises situated in the City of Muskegon, Muskegon County, Michigan, more particularly described as:

See Attached Exhibit A [Description includes the entire Hilt and
Frauenthal buildings, excepting therefrom the project areas.]

3. Lease Term and Provision for Purchase. The lease term commences upon sale of the bonds and ends on a date not later than thirty (30) days after the bonds have been fully paid and satisfied, but no longer than 50 years.

(a) Lessee shall purchase the Premises, without the necessity of notice thereof, on or before a date thirty (30) days after the bonds have been paid and satisfied. A closing shall occur immediately thereafter conveying title to Lessee, unencumbered by any action of Lessor. Total consideration for the said purchase shall consist of the costs and other expenses paid by Lessee to operate, manage, maintain and repair the premises and project during the term of this Lease, plus One Dollar.

(b) At closing of the purchase by Lessee, Lessor shall convey to Lessee by County quit claim deed the Premises to be conveyed in accordance with this Sublease, subject only to such easements and restrictions as were of record on the date hereof, laws, ordinances and zoning regulations. As evidence that its title is as aforesaid, Lessor shall, at Lessee's expense and at Lessee's option, provide to Lessee a commitment, issued by a title insurer licensed to do business in the State of Michigan, for a standard form owner's policy of title insurance in the amount of \$1,000,000.

(c) The closing shall take place within five (5) days after all necessary papers have been prepared, and all conditions precedent hereunder met, but no later than sixty (60) days after the date that the bonds have been paid and fully satisfied. The closing shall occur at the offices of the title insurer or at such other place as the parties shall mutually agree.

(i) At closing, Lessor shall execute and deliver the following documents to buyer: (1) quit claim deed for the property; (2) bill of sale for any personal property transferred; (3) title insurance commitment, as provided above; and (4) closing statement reflecting the transaction.

(ii) Lessee shall pay all recording fees and all of its other closing costs.

(iii) Each party shall execute and deliver such other documents as may be reasonably necessary to fully consummate the transfer of all of Lessor's right, title and interest in and to the premises, contents and fixtures to Lessee.

(d) Lessee shall continue in possession of the property at closing.

(e) The Lessor shall pay or assure the payment of all rents and charges and expenses required by the County Building Authority Lease and in connection with payment and satisfaction of the bonds and obtain the discharge of any encumbrance on the Property before closing. Lessor warrants that the CBA lease provides for marketable title in Lessor before closing contemplated herein.

4. Use of Premises. Lessee shall use and occupy the Premises in connection with its activities as a Community Foundation, and as sublessor to others.

5. Lessee's Warranty of Corporate and Non-Profit Status. Lessee hereby warrants and covenants that it is and at all times during the term of this lease shall be, a legally established community foundation and charitable organization qualified as such pursuant to Internal Revenue Code Section 501(c)(3). Further, the Premises shall be operated and managed at all times so as to continue in effect and not adversely affect the federal tax exempt status of the bonds issued by the County Building Authority, the proceeds of which are to be used entirely on the project premises, not leased hereunder.

6. Rent. As and for rent for the Premises, the Lessee shall be fully responsible for all operating, maintenance and repair expenses (including reasonable reserves for maintenance and repair) in the Premises for the entire term of this Sublease, whether or not said expenses are in excess of revenues. This shall include all taxes, if the Premises become taxable, assessments, insurance premiums and other charges against the property.

7. Taxes. Lessee shall, as additional rent, pay all real property taxes and special assessments which are due and payable against the leased premises during the lease term without proration; provided, that the assessment portion shall be limited to the minimum amount permitted by law on an installment basis. Lessee shall also pay all personal property taxes levied against personal property owned by Lessee and located on the leased premises and on personal property put onto the leased premises by Lessee and which is assessable for personal property tax purposes. All such taxes and assessments shall be paid on or before the last date when payment may be made without interest or penalty. Within ten (10) days thereafter, Lessee shall submit to Lessor receipted statements as evidence of payment of such taxes and assessments. Lessee shall have the right to contest the validity or amount of any tax or special assessment or seek to obtain a reduction of the assessed valuation of the leased premises, and Lessor agrees to do all things necessary to assist in prosecuting such protest or appeal, provided that it is without expense or cost to Lessor. Lessee and Lessor are both tax exempt entities, and the parties do not contemplate any taxes; however, in the event of any tax or assessment, Lessee shall have the obligation to defray them and prevent any foreclosure or enforcement action for any taxes or assessments.

8. Utilities. Lessee shall be solely responsible for and promptly pay all charges for water, gas, electricity, communications and sewer charges and any other utilities used upon or furnished to the leased premises before any penalty for non-payment shall accrue and shall pay for all additional utility installations necessary for Lessee's use of the leased premises.

9. Property Insurance. Lessee will carry fire and extended peril coverage and boiler insurance on the building or any improvements added by Lessee on the leased premises with an appropriate insurer and in amounts of coverage agreed to by the parties. The proceeds shall be payable to Lessor, the CBA and Lessee as their respective interests shall appear. Lessee shall furnish a certificate showing issuance of such coverage. The insurance policy taken out by Lessee shall include the Lessor and CBA as loss payees, and the certificates furnished shall be continuing evidence thereof.

10. Destruction by Fire or Other Insured Casualty; Risk of Loss for Uninsured Casualty. In case any building or improvements on the leased premises shall be partially or totally destroyed by fire or other casualty covered by standard casualty, fire and extended coverage insurance so as to become partially or totally untenable, said building shall be repaired as soon as possible at Lessee's expense, provided that all insurance proceeds shall be available to Lessee for all repair and reconstruction. The risk of loss with respect to all uninsurable losses to the premises subject to this lease shall rest upon Lessee. In the event the building cannot be repaired the net proceeds of insurance recoveries applicable to the premises covered by this lease shall be the property of Lessee.

11. Liability and Other Insurance Coverage. Lessee shall obtain the following insurances and name the County and the CBA as additional insureds, providing certificates at the time of the execution of this agreement and further providing that the insurance companies writing the policies shall provide an extra copy of each policy for the County. The certificates and the policies shall carry the provision that no cancellation of insurance shall be valid against the County unless a notice is sent at least thirty (30) days before the effective date of cancellation. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverage shall be with insurance carriers acceptable to County:

11.1 Workers' Compensation Insurance: Lessee shall procure and maintain during the life of this contract, Worker's Compensation Insurance, including Employers Liability Coverage, in accordance with all applicable Statutes of the State of Michigan.

11.2 Commercial General Liability Insurance: Lessee shall procure and maintain during the life of this contract, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$3,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable.

11.3 Builders Risk Coverage During Construction: Lessee shall obtain or cause to be obtained builders risk insurance during the construction of the project.

11.4 Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance coverage, as described above, shall include an endorsement stating the following: "It is understood and agreed that thirty (30) days' Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be required before this policy can be canceled or changed, and shall be sent to:

County of Muskegon
990 Terrace Street
Muskegon, Michigan 49440

Attention: County Administrator

11.5 Proof of Insurance Coverage: Lessee shall provide the County at the time the contracts are returned by him for execution, certificates and policies as listed below:

- a. Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance;
- b. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;

11.6 If any of the above coverages expire during the term of this contract, Lessee shall deliver renewal certificates and/or policies to Lessor at least ten (10) days prior to the expiration date.

12. Maintenance, Alterations and Improvements:

(a) Maintenance. Lessee shall make all necessary repairs to the leased premises and shall at all times keep the leased premises in a good state of repair and in a reasonably clean, orderly and presentable condition, given Lessee's primary use of the leased premises. Lessee's obligation shall include, but not necessarily be limited to: exterior and structural maintenance, and reconstruction and repair of the interior portions and components of the premises, such as the walls, ceilings, heating, electrical, plumbing, and sprinkler systems, any building security systems, and other interior components. Lessor shall be given notice of Lessee's plans for any major repair or replacement to be undertaken. Lessee shall also at its expense, remove snow, ice and rubbish from the leased premises. If, despite the provisions of this lease, a spill or emission of contaminants or hazardous materials should occur, Lessee shall promptly notify Lessor and the appropriate governmental agencies and immediately take whatever steps may be necessary to clean up the spill or emission, protect the public and the environment, and insure it does not happen again.

(b) Maintenance and Repair Reserve. Lessee presently maintains a fund for maintenance and repair of the Premises. Lessee commits to maintain in that fund an amount at least equal to the average cost of maintenance and repair expenses not covered by the proceeds from the use of the Premises.

(c) Alterations and Improvements. Lessee may make, at its sole expense, alterations and improvements to the Premises. The following conditions shall apply in connection with the said consent: (1) No alterations of any kind shall be made which would materially reduce or impair the value or rentability of the leased premises or any part thereof; (2) No alterations or improvements shall be commenced until the Lessee has procured and paid for all necessary permits and authorizations of all governmental authorities having jurisdiction - Lessor shall join whenever necessary to obtain such permits, but without any liability or expense to Lessor; (3) All alterations or improvements shall be made promptly and in a good workmanlike manner and in compliance with all applicable permits, laws and ordinances of all

governmental authorities having jurisdiction thereof; (4) Before commencing such alterations or improvements, Lessee or its general contractor shall, at its sole expense, provide Lessor with certificate of worker's compensation insurance covering all persons with respect to whom death or bodily injury claims could be asserted.

13. Assignment and Subletting. No general assignment of this lease may occur without Lessor's consent, which shall not be unreasonably withheld. Lessee shall have the right to sublet to tenants without consent. Contracting with a manager to operate the Premises shall not constitute a prohibited assignment.

14. Environmental Liabilities. Lessee shall be responsible for maintaining the Project and the Premises in accordance with all environmental statutes, laws, regulations, orders and directives of any governmental entity, local, state or federal. Lessee shall further indemnify and hold harmless Lessor from any and all claims, demands, damages, fines, penalties, expenses or costs resulting from any such release which occurs during the term of this Lease.

Further, Lessee, in carrying on any alterations or improvements shall not allow or cause any release of hazardous substances and shall be fully responsible therefor.

Lessor warrants that it has not caused or allowed any release of hazardous substances on the Project; that it has not been in possession thereof sufficiently or controlled sufficiently the activities therein, to know of or be responsible for any such release, and it shall not cause or allow the release of said substances. In the event a prohibited release does occur as a result of or from Lessor's activities, the Lessor shall be responsible and shall hold Lessee, its officers, agents, employees or volunteers, harmless from any and all claims, demands, damages, fines, penalties, expenses or costs resulting from any such release which occurs during the term of this Lease.

15. Indemnity. Lessee shall indemnify, defend and save Lessor harmless from and against any and all claims, actions, damages, liability and expense which at any time may be suffered or sustained by Lessee, or by any persons who may at any time be using, occupying or visiting the property or building, or may be in or about same, whether such shall be caused by or in any way result from or arise out of any act, omission or negligence of Lessee, or of an occupant, subtenant, visitor or user of any portion of the property or building and Lessee shall indemnify and defend Lessor from and against all claims, liabilities, losses or damages whatsoever, including, without limitation, attorney fees. Provided, however, the foregoing shall not apply to loss, injury, death or damage arising by reason of the negligence or misconduct of Lessor.

16. Entry by Lessor. Lessor or Lessor's agents or employees shall have the right to enter the leased premises at all reasonable times for the purpose of inspecting the same for compliance with this Lease.

17. Default. If Lessee shall fail to pay the required rentals or breach any covenants herein, and such default continues for a period of ninety (90) days after written notice thereof from Lessor, or if Lessee abandons the premises, or if a receiver or trustee is appointed for its property whereby this lease agreement shall by operation of the law pass to any person other than Lessee, Lessor, at its sole option, may terminate this lease.

18. Quiet Possession. If Lessee shall pay the rents and perform all of its covenants as set forth herein, Lessor covenants that Lessee shall have peaceable and quiet possession of the leased premises during the term hereof.

19. Eminent Domain. In the event any part of the leased premises shall be taken in condemnation proceedings under the power of eminent domain, the expenses and the amounts payable in connection with Lessee's responsibilities set forth in this Lease shall thereafter be reduced proportionately to the resulting diminution in the leased premises. Net proceeds of any taking of the Leased Premises which are not related to the Project areas in the building shall be payable to the Lessee.

20. Encumbrances and Subordination. Lessor further agrees to cause no encumbrance to be placed on the premises without consent of Lessee, except that Lessee agrees that this Sublease shall be subordinate only to encumbrances in favor of the bond holders of bonds issued in connection with the project on the "project premises". This lease shall have priority over any other encumbrance.

At the request of Lessor, Lessee shall, within ten (10) days, deliver to Lessor, or anyone designated by Lessor, a certificate stating and certifying as of its date: (a) that all responsibilities for operation, maintenance and repair and any other responsibilities included in the rental obligations of Lessee under this Sublease have been paid; (b) whether or not there are then existing any setoffs or defenses against the enforcement of any of the agreements, terms, covenants or conditions of this lease on the part of Lessee to be performed or complied with (and, if so, specifying the same); and (c) if such be true, that this lease is unmodified and in full force and effect and Lessor is not in default under any provision of this lease.

21. Surrender. Only in the event Lessee does not take title at the end of the term, upon expiration of the lease term, or in the event of an earlier surrender of possession of the leased premises, Lessee shall deliver up and surrender the leased premises in good tenantable condition, reasonable wear and tear and damage by fire, the elements or other casualty excepted, together with all alterations, additions and improvements which may have been made in, to, or on the leased premises, except movable furniture or unattached movable trade fixtures installed at the expense of Lessee. Lessee, on or before the expiration of the lease term, shall remove all property which it is entitled to remove from the premises, and all property not so removed shall be deemed abandoned. If the leased premises are not timely surrendered to Lessor, Lessee shall indemnify Lessor against any loss or liability resulting from such delay, including any claims made by any succeeding Lessee based upon such delay.

22. Notices. Any notice required under the terms of this lease shall be presumed conclusively to have been served upon the parties if such notice is sent by certified mail, return receipt requested, to the addresses and persons as follows:

Lessor: County of Muskegon
Attn: County Administrator
990 Terrace Street
P.O. Box ____
Muskegon, MI 49443

Lessee: The Community Foundation For Muskegon County
Attn: President
425 W. Western Avenue
Muskegon, MI 49440

23. Venue. By execution of this lease, Lessee consents to venue in Muskegon County of any action brought to enforce any of the terms of this lease or collect any monies due hereunder.

24. Waiver. The waiving of any of the covenants of this lease by either party shall be limited to the particular instance thereof and shall not be deemed to waive any other breaches of such covenant.

25. Severability. If any term or provision of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.

26. General. This agreement shall inure to the benefit of and be binding upon the parties hereto, their legal representatives, successors and assigns, subject to the provisions concerning assignment and subletting above. This lease shall be governed by the laws of the State of Michigan. Time shall be of the essence. If more than one party joins in the execution hereof as Lessor or Lessee, or if any be of the masculine or feminine sex, the pronouns and relative words used herein shall be read as if written in such tense. This agreement sets forth the entire agreement between the parties, and shall not be modified except by a writing executed by both parties, and a copy of same attached hereto.

27. Captions. The captions of this agreement are for convenience only and shall not be considered as part of this agreement or in any way limiting or amplifying the terms and conditions hereof.

28. No Third Party Beneficiary. This lease shall benefit only the parties hereto and no third party, except the Muskegon County Building Authority, and the holders of the Bonds as their interest may appear.

29. Memorandum of Lease. Either party may record a memorandum of lease referring to this instrument at the Muskegon County Register of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year first above written.

LESSOR - COUNTY OF MUSKEGON

By Kenneth J. Hulka
Kenneth Hulka
Chairman of County Commissioners

and Ruth Stevens
Ruth Stevens
County Clerk

LESSEE - THE COMMUNITY FOUNDATION
FOR MUSKEGON COUNTY

By Robert D. Hovey
Robert D. Hovey, Chairman

and Patricia Johnson
Patricia Johnson, President and Secretary
of the Board of Directors

EXHIBIT A

LEGAL DESCRIPTION

**SUBLEASE BETWEEN MUSKEGON COUNTY AND
MUSKEGON COUNTY COMMUNITY FOUNDATION
FOR THE FRAUENTHAL AND HILT BUILDINGS AREAS
NOT INCLUDED IN THE PROJECT.**

1996 MUSKEGON COUNTY BUILDING AUTHORITY BONDS

Parcel 1: (Muskegon County Community Foundation Building)

Lots 1, 2 and the Easterly 20 feet of Lot 3 of Block 313 of the Revised Plat of the City of Muskegon, as recorded in Liber 3 of Plats, page 71, Muskegon County records, in the City of Muskegon, County of Muskegon, State of Michigan, excepting therefrom the areas set forth below located in the improvements on the premises, said areas to be known as "the Project."

Parcel 2: (Hilt Building)

The Westerly 46 feet of Lot 3 and the Easterly 42 feet of Lot 4 of Block 313 of the Revised Plat of the City of Muskegon, as recorded in Liber 3 of Plats, page 71, Muskegon County records, in the City of Muskegon, County of Muskegon, State of Michigan, excepting therefrom the areas set forth below located in the improvements on the premises, said areas to be known as "the Project."

DESCRIPTION OF THE PROJECT

The project, located in areas of both the Foundation Building and Hilt Building is described as follows. Floor plans are attached to this Exhibit with numbered areas corresponding to the description following:

Master Plan - Basement Plan

1. Restaurant and kitchen.
2. Mechanical room
3. Basement of auditorium:

- 3.A Plenum/Support space under the auditorium
- 3.B Restrooms in the basement
- 4. Mechanical, electrical, orchestra pit and trap room for the Frauenthal Theater

First Master Plan - First Floor Plan

- 1. Installation of box office in the Hilt Building lobby
- 2. The Hilt Building lobby
- 3. The freight elevator located in the Hilt Building (serves all four floors of the Hilt Building)
- 4. The Frauenthal Theater and new lobby for the Frauenthal Theater, (connected with the Hilt Building lobby), removal of the present restaurant and store/office space to the East of the present restaurant space, converting all to the theater lobby.

Master Plan - Second Floor Plan

- 1. Frauenthal Theater renovations
- 2. Marquee for the Frauenthal Theater

Master Plan - Third Floor Plan

- 1. Frauenthal Theater renovations
- 2. Marquee for the Frauenthal Theater

Master Plan - Fourth Floor Plan

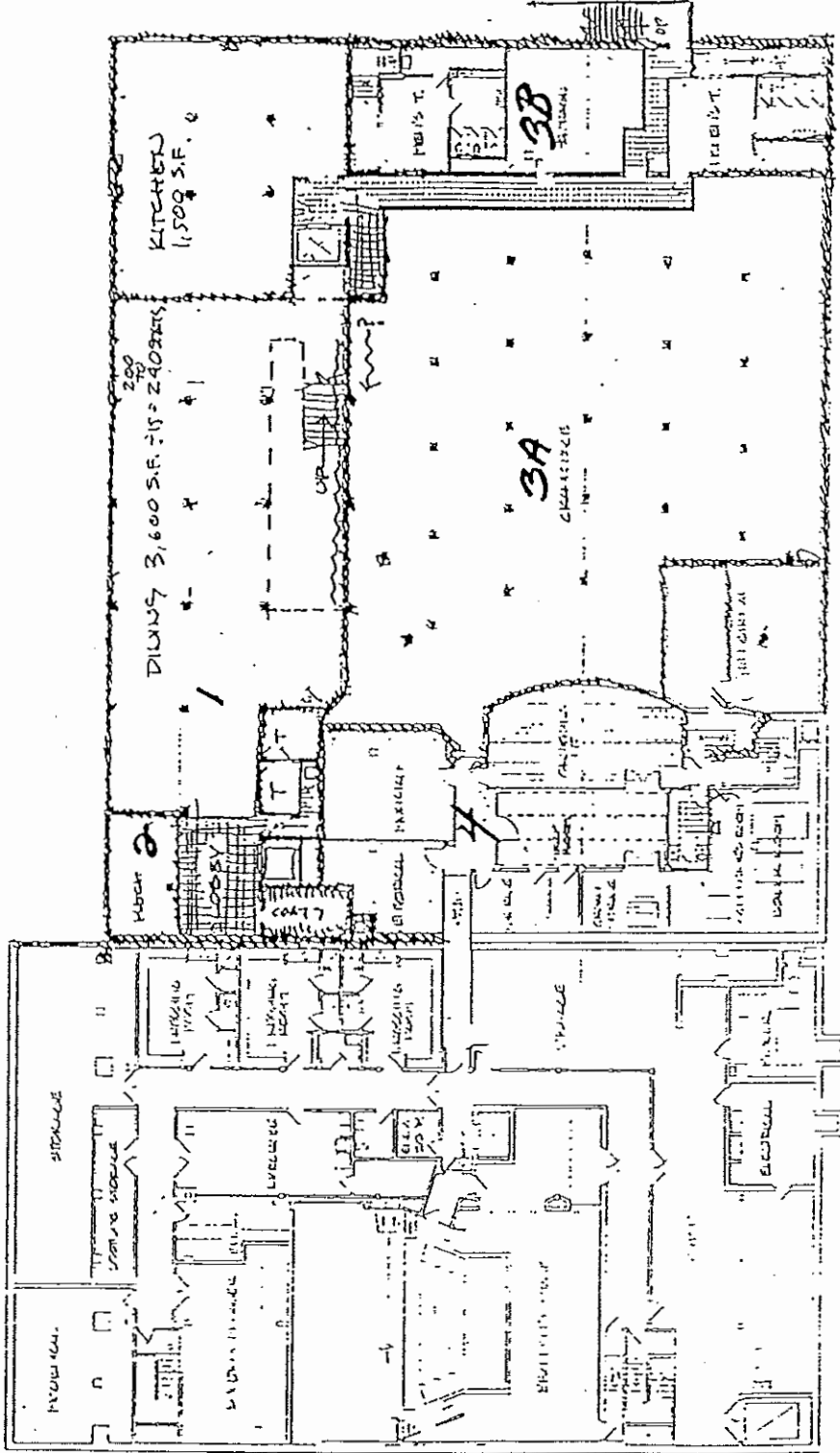
- 1. Frauenthal Theater renovations
- 2. Marquee for the Frauenthal Theater

Master Plan - Attic/Grid Plan

- 1. Frauenthal Theater renovations
- 2. Added mechanical installations to serve the theater and theater lobby

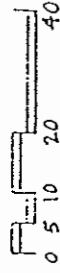
**Mechanical, Electrical and Plumbing Installations
in the Buildings Serving the Project Areas**

There are mechanical, electrical and plumbing installations throughout the building which serve the theater and will serve the renovated theater, lobby, dressing room and mechanical area, which are included in the project.

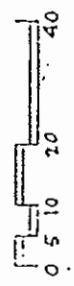
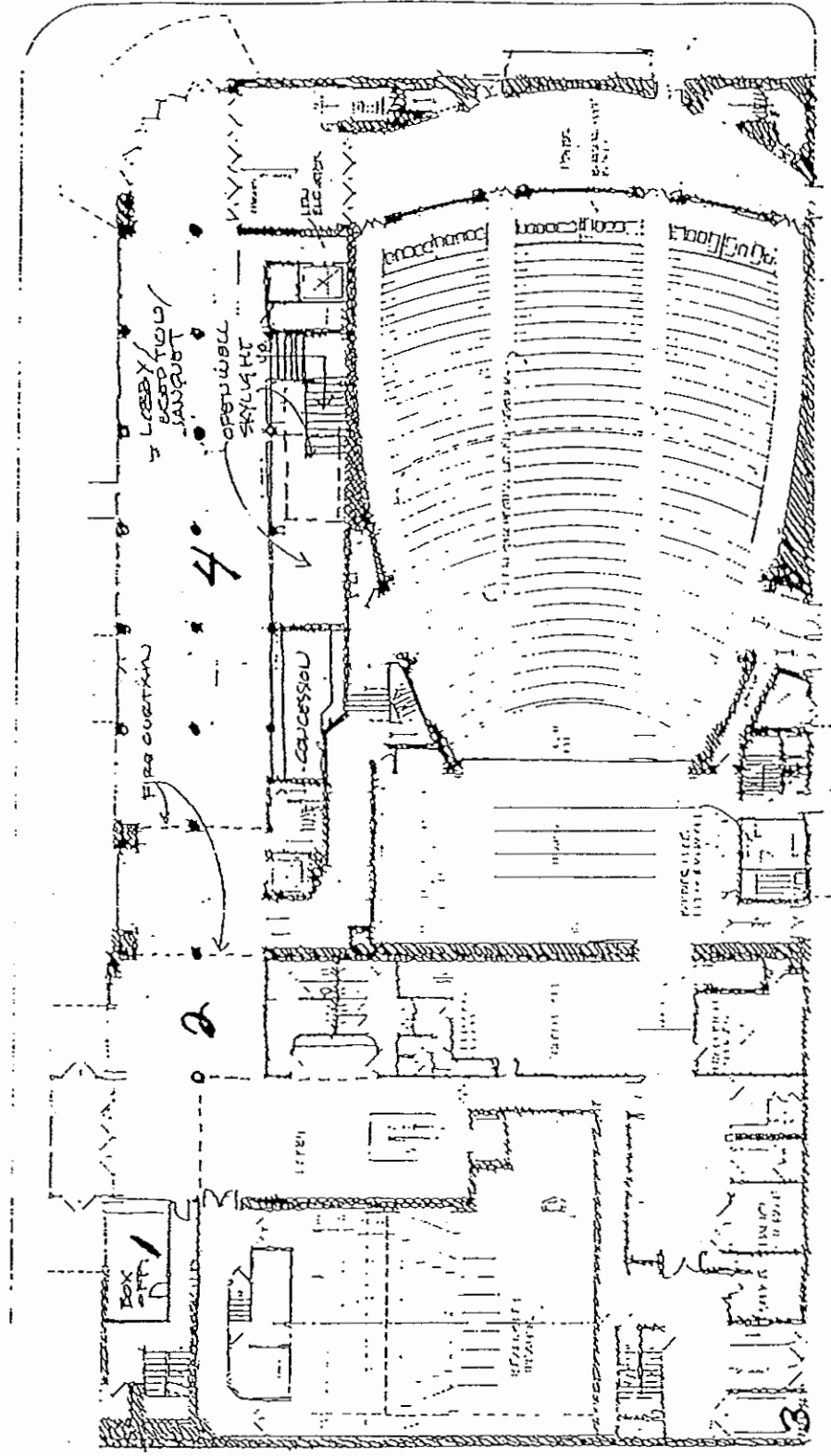


Renovation

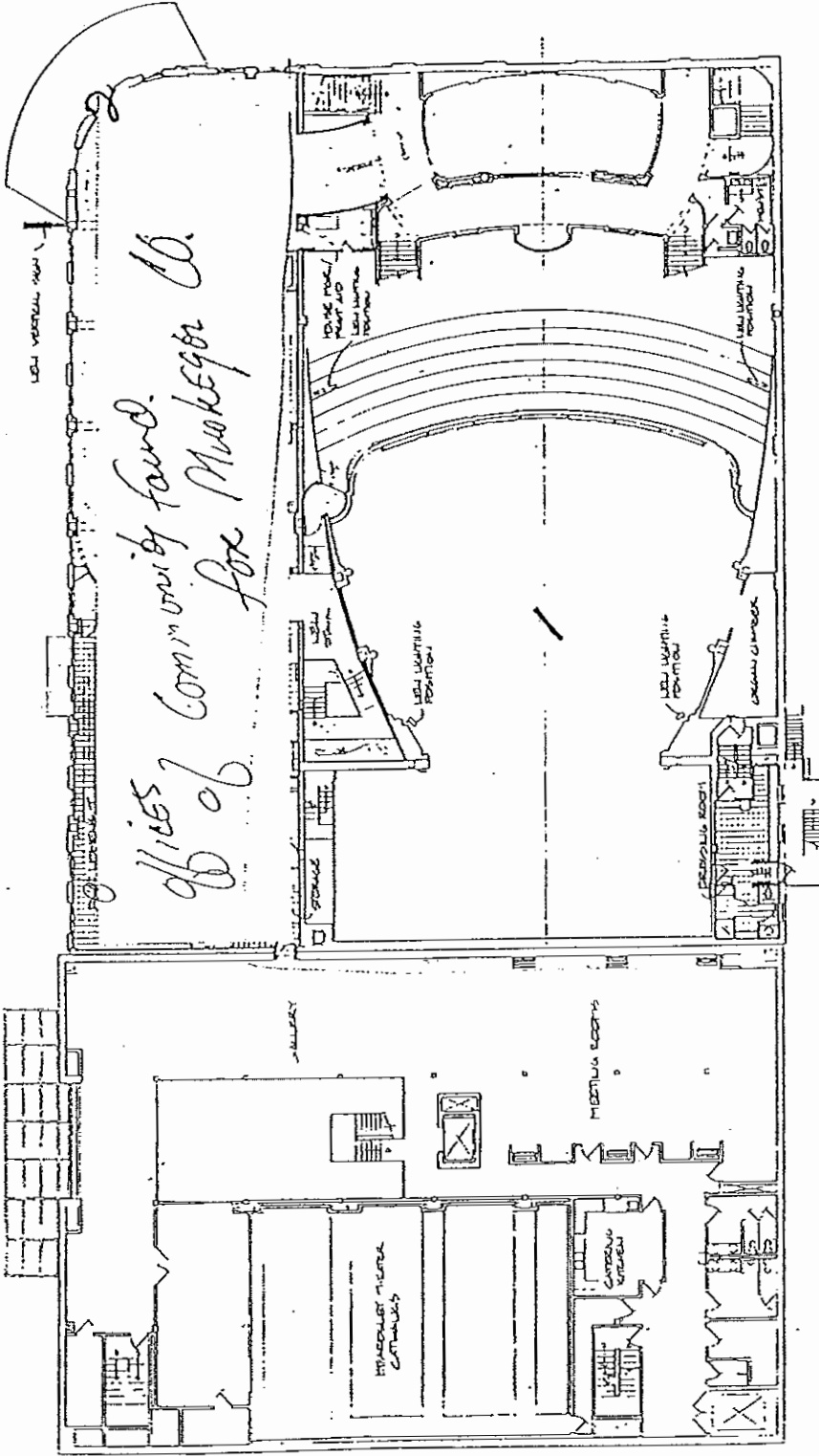
Renovation



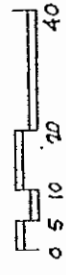
MASTER PLAN BASEMENT PLAN



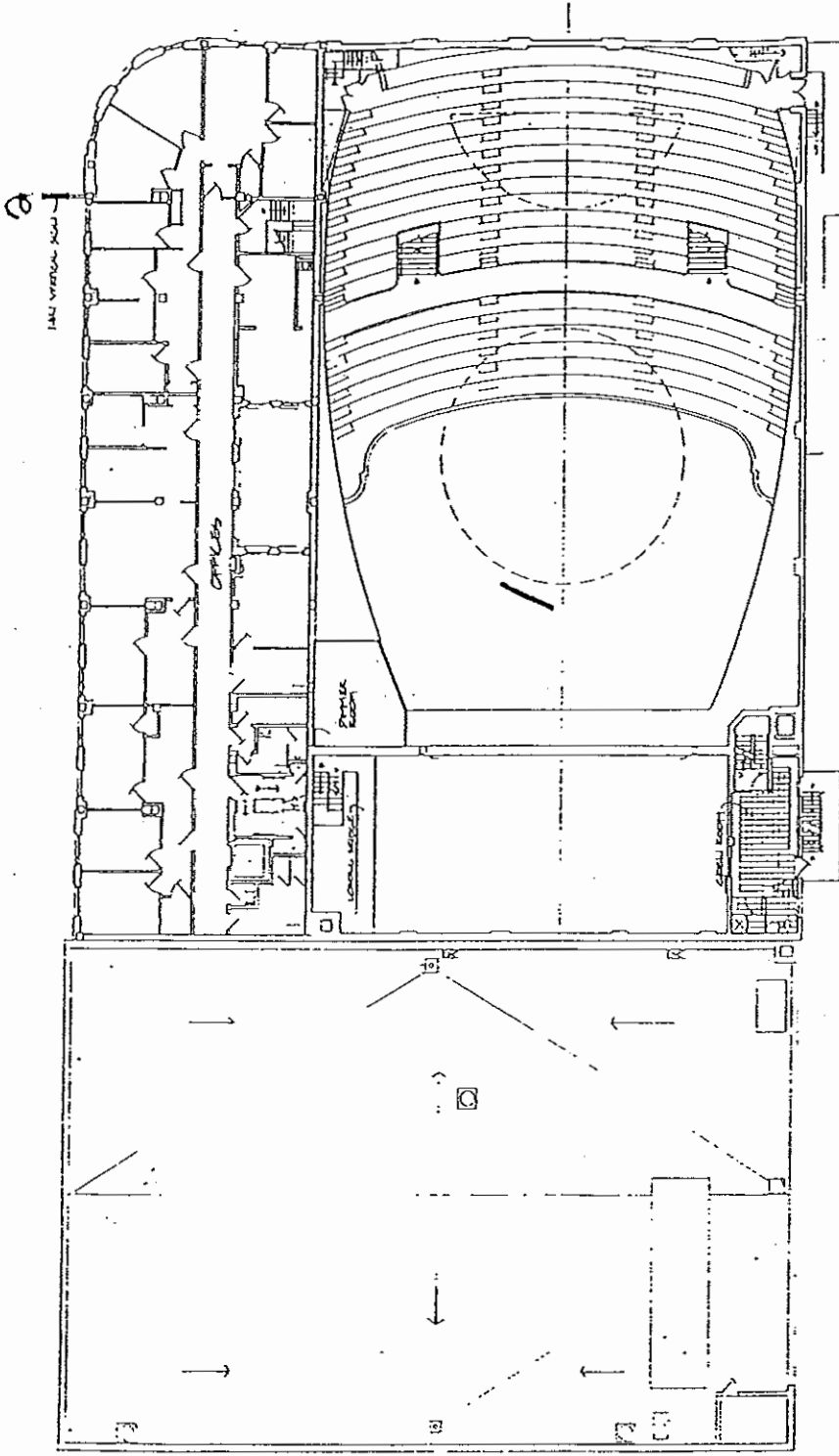
MASTER PLAN FIRST FLOOR PLAN ALT 1
 111.



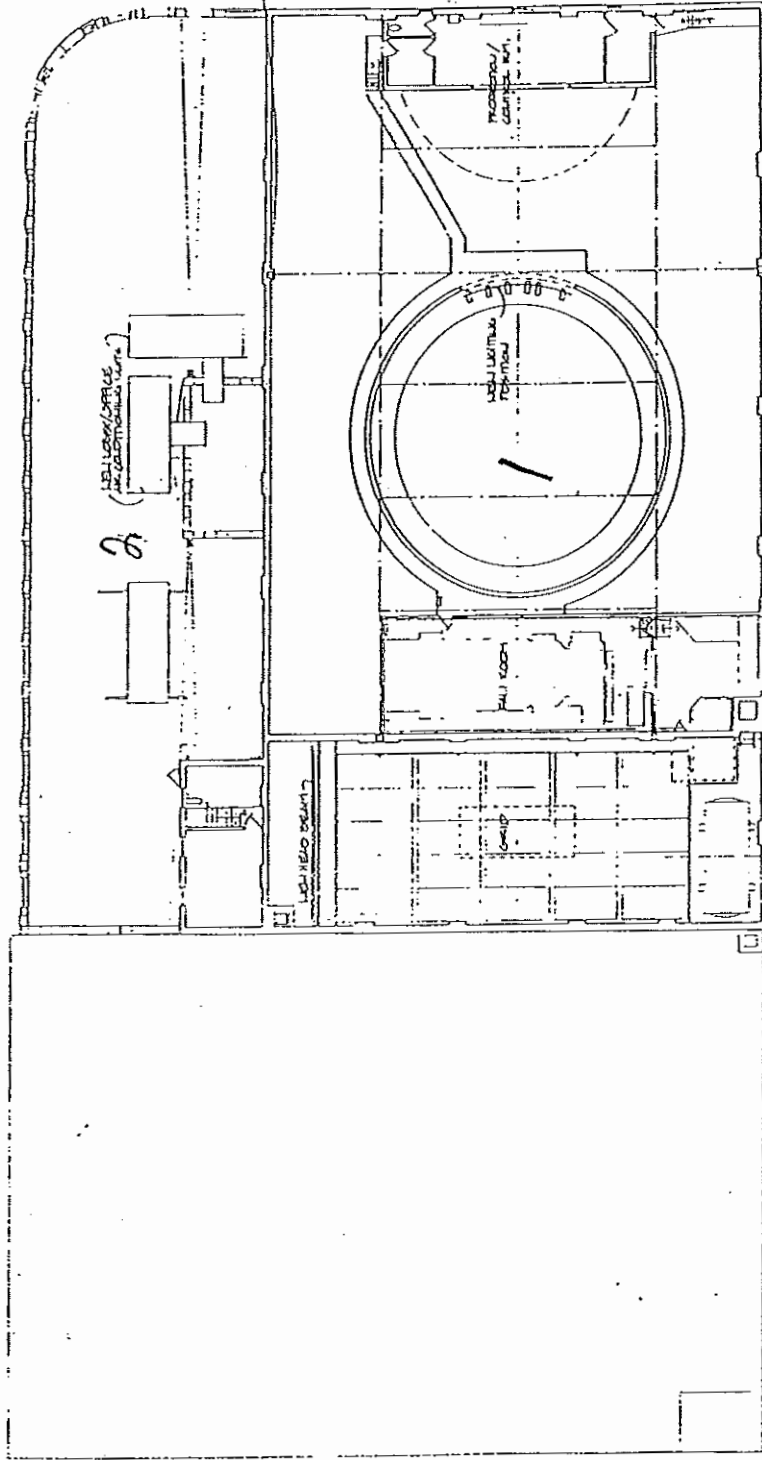
*Office of Community Fund.
for Muekega Co.*



MASTER PLAN SECOND FLOOR PLAN



MASTER PLAN FOURTH FLOOR PLAN



MASTER PLAN ATTIC/GRID PLAN