

Date June 22, 2015

**ACCEPTANCE OF A PERMANENT PUBLIC PEDESTRIANWAY EASEMENT IN  
CONJUNCTION WITH THE DES MOINES PERFORMING ARTS COWLES COMMONS  
AND CIVIC CENTER BLOCK IMPROVEMENTS PROJECT**

WHEREAS, on December 15, 1975, by Roll Call No. 5636, the City Council approved the Contract for Lease and Lease for Development of the Theater Block and the Park Plaza Block with the Civic Center of Greater Des Moines, n/k/a Des Moines Performing Arts; and

WHEREAS, on January 20, 1992, by Roll Call No. 92-204, the City Council approved an Agreement for Purchase of Redeveloper's Leasehold Estate Interest in the Park Plaza Block Property dated January 20, 1992 and filed at Book 6495, Page 5897, et. seq. in the records of the Polk County Recorder, which Agreement incorporated a Second Amendment to the Contract for Lease and Lease; and

WHEREAS, on January 22, 1996, by Roll Call No. 96-331, the City Council approved Third Amendment to the Contract for Lease and Lease dated January 22, 1996 and filed at Book 7411, Page 255 et. seq. in the records of the Polk County Recorder; and

WHEREAS, the Park Plaza Block improvements were more than thirty years old and the property needed major renovations and improvements in order to continue as a first-class recreational and cultural amenity in the downtown area; and

WHEREAS, Des Moines Performing Arts desired to enhance and improve the Park Plaza Block and the Theater Block and undertook a private fund raising effort to construct and fund capital improvements to the Park Plaza Block and Theater Block in the amount of approximately \$9,000,000 pursuant to a Schematic Design for improvements to the Park Plaza Block and Theater Block; and

WHEREAS, on May 6, 2013, by Roll Call No. 13-0752, the City Council approved the Schematic Design for the Theater Block and the Park Plaza Block and approved all improvements made in accordance with such Schematic Design, which includes in the Park Plaza Block an open plaza for large community events, intimate gathering areas, an interactive fountain, gardens, trees, paved walkways, adjacent sidewalks, lighting, seating, street lights, traffic signals and public art and, in the Theater Block, a paved walkway, and garden areas (hereinafter collectively "the Improvements"); and

WHEREAS, on May 20, 2013, by Roll Call No. 13-0803, the City Council approved the renaming of the Park Plaza Block from "Nollen Plaza" to "Cowles Commons"; and

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WHEREAS, on May 6, 2013, by Roll Call No. 13-0753, the City Council approved an Urban Renewal Development Agreement between the City and Redeveloper which provided for a \$400,000 economic development grant to Des Moines Performing Arts to be used for the payment or reimbursement of costs related to the construction or installation of improvements to the Park Plaza Block and surrounding area or costs related to its operation, management and maintenance; and

WHEREAS, the parties desire to add to the leased Property a portion of vacated 4th Street right-of-way and Locust Street right-of-way abutting the Park Plaza Block needed to accommodate the Improvements on the Park Plaza Block, with the City retaining a newly established easement for public access between Locust Street and Walnut Street on the leased Property; and

WHEREAS, a Fourth Amendment to Lease of Land for Private Redevelopment has been prepared, a copy of which is on file in the City Clerk's Office, which provides for the lease of a portion of vacated 4th Street right-of-way and Walnut Street right-of-way abutting the Park Plaza Block needed to accommodate the Improvements on the Park Plaza Block, with the City retaining a newly established easement for public access between Locust Street and Walnut Street on the leased Property.

WHEREAS, the exclusive use of the above described portions of vacated 4th Street and Walnut Street are not presently required by the City of Des Moines for municipal purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the attached documents are hereby approved and accepted as follows:

1. That the conveyance of such permanent easement, be and is hereby approved.
2. The Mayor is authorized and directed to sign the permanent easement for conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. The City Clerk is authorized and directed to forward the original of the permanent easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded.
4. The Real Estate Division Manager is authorized and directed to forward the original of the permanent easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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5. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail a copy of the permanent easement to the Des Moines Performing Arts.

6. There are no proceeds from the conveyance of this easement.

(Council Communication No. 15-342)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

Ann DiDonato, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Mayor