

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 13, 2015
	Agenda Item No. 50 Roll Call No. [_____] Communication No. <u>15-364</u> Submitted by: Benjamin R. Page, Park and Recreation Director

AGENDA HEADING:

Approval of Fourth Amendment to Contract for Lease and Lease of Land for Private Redevelopment by and between City of Des Moines and Des Moines Performing Arts (DMPA).

SYNOPSIS:

DMPA, f/k/a Civic Center of Greater Des Moines, has lead efforts to renovate Nollen Plaza, n/k/a Cowles Commons (Park Plaza Block). DMPA completed a schematic design for improvements to the Civic Center (Theater Block) and Park Plaza Block and met their fundraising goals for implementing the proposed improvements for Cowles Commons which are under construction and have opened to the public.

Staff recommends approval to transfer all maintenance responsibilities to DMPA for Park Plaza Block and Theater Block. The City shall have no responsibility for maintenance of any facilities, any improvements or any grounds maintenance in the Park Plaza Block and the Theater Block during the term of this Lease. The City’s responsibility under this Agreement shall be limited solely to the City providing DMPA an annual payment of \$90,000 with a \$2,000 increase each year for the term of the lease which expires in 2075. The City shall continue to provide the tree care and management described in Exhibit A of Amendment at the City’s sole discretion and cost.

FISCAL IMPACT:

Amount: \$90,000 paid in annual installments beginning in Fiscal Year (FY) 2016, plus an annual \$2,000 increase.

Funding Source: Parks and Recreation Department, Downtown Maintenance, G001 PK200225, page 161

ADDITIONAL INFORMATION:

History

Park Plaza Block has served as a park-like space in downtown since the late 1970’s. In its first iteration as Nollen Plaza, the 1-block square space included a grassy area on its Walnut Street frontage and the Brenton Waterfall and Reflecting Pool with surrounding steps that provide audience seating along Locust and 3rd Streets. The Crusoe Umbrella, designed by Claes Oldenburg and Coosje Van Bruggen, stood (as it does today) on the northeast corner of the Park Plaza Block.

Nollen Plaza was dedicated in 1979 as part of the new Civic Center complex which replaced the then recently closed KRNT Theater. In the mid-1990s a refreshing of the area was undertaken with new light fixtures and benches and major repair of the fountain/pool area. A severe storm destroyed the tree grove on the south side of the Plaza in April 2012.

The Park Plaza Block was originally named after Gerald and Henry Nollen in recognition of their contributions to Des Moines commerce and culture; both were officers of Bankers Life (which has since become Principal Financial).

Park Plaza Block and Theater Block Improvements

Key elements of the improvements are an open plaza for large community events, intimate gathering areas, an interactive fountain, gardens, trees, paving, walkways, lighting, seating, and new public art.

The design work was done by Ken Smith Landscape Architects of New York City. Mr. Smith is an Iowa State University graduate and native of the metro Des Moines area. His office's work is highly regarded across the world. He has retained the expertise of a lighting designer, an urban tree expert coordinated with City of Des Moines Arborist, David Jahn, a fountain designer, a graphic design firm and a team of local consultants including RDG Planning and Design, Bishop Engineering, JP-SE Structural Design, Bluestone Engineering and EC Design Group (irrigation). Jim Campbell was selected by the Art Center and has provided the proposal for a LED-lighted interactive public art installation. Cal Lewis is serving as an architectural consultant to DMPA and provides the project with a historical connection to the original Civic Center and Nollen Plaza design.

The schematic design includes the Park Plaza Block and the Theater Block. DMPA completed construction on the Park Plaza Block around July 1, 2015 and will use the schematic design for the Theater Block to phase improvements on that block over the next several years.

Payment of the initial installment of the \$90,000 will be made to DMPA August 1, 2015.

Present Lease Terms

The Park Plaza Block is leased to DMPA with the requirements that the space be operated and managed in such a way as to retain its park-like character and promote the recreational and cultural desires of the Des Moines community, as well as used in a manner that is consistent with the aesthetic quality and use of the Theater Block [Civic Center] Property. This space may be used for supportive and accessory commercial uses. Under the lease, the City was the owner of the Nollen Plaza improvements, excluding the Crusoe sculpture. If DMPA desires to construct any building, structure or other improvement on the property, City Council approval is required.

Other key provisions in the current lease include:

- Term of Lease: 99 years and expires in 2075;
- Operations: Park Plaza Block is operated by DMPA which has the right to charge Park Plaza Block users a reasonable fee for use of (Cowles Commons) in an amount not to exceed the costs incurred in connection with the use and has the right to retain discretion as to the use of the Park Plaza Block, consistent with the community use of the facility; and
- Maintenance: The City is responsible for grounds maintenance (snow removal, grass trimming, landscaping, etc.) DMAP is responsible for material maintenance necessary to keep the block and its improvements in good condition and repair.

New Lease Terms

The City and DMPA negotiated an amendment to the current terms of the lease agreement to respond to the maintenance and operation needs of the new improvements to the Park Plaza Block and the Theater Block. Park Plaza Block and Theater Block Maintenance Standards Program Overview details the level of maintenance expected, and a copy is on file with the City Clerk. The Maintenance Standards include electrical, fountain, graffiti/vandalism, hardscape, irrigation, landscape/plant beds, events, security, site furniture, snow removal, turf and trash/litter removal. The City will retain maintenance and management responsibilities for trees in Cowles Commons and the Theater Block.

Key provisions of the amended lease include:

- Lease expires 2075;
- City's responsibility to maintain Cowles Commons and Des Moines Civic Center shall be limited solely to the City providing DMPA an annual payment of \$90,000 with a \$2,000 increase each year for the term of the lease;
- The City shall continue to provide the tree care and management described in Exhibit A of Amendment at the City's sole discretion and cost; and
- Naming rights for 40 years, but not to exceed the term of the lease.

PREVIOUS COUNCIL ACTION(S):

Date: [June 22, 2015](#)

Roll Call Number: [15-1038](#)

Action: Items regarding the DMPA Cowles Commons and Civic Center block improvement project:

- (B) [Setting](#) date of hearing on the vacation of a portion of Walnut Street abutting Cowles Commons and Fourth Amendment to lease with DMPA, (7-13-15). ([Council Communication No. 15-342](#)) Moved by Gatto to adopt. Motion Carried 7-0.

Date: May 6, 2013

Roll Call Number: [13-0752](#) and [13-0753](#)

Action: Items regarding Nollen Plaza/Civic Center Theater Block: ([Council Communication No. 13-231](#))

- (A) [Approving](#) Schematic Design. Moved by Hensley to adopt. Motion Carried 7-0.
- (B) [Approving](#) Urban Renewal Development Grant Agreement with DMPA. Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 20, 2013

Roll Call Number: [13-0803](#)

Action: [Renaming](#) of Nollen Plaza as “Cowles Commons”. Moved by Moore to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Urban Design Review Board

Date: April 23, 2013

Action: By consensus of the members present, recommended \$400,000 economic development grant is reasonable and appropriate to support the project.

Board: Parks and Recreation Board

Date: October 23, 2012

Resolution Number: 12-091

Action: Provided comments requesting that additional grass be provided and that plans for maintenance be addressed.

Board: Plan and Zoning Commission

Date: October 18, 2012

Action: Approval to support the preliminary Schematic Design for the Nollen Plaza renovation (10-0).

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Council approval of a naming proposal and lease agreement amendment, if needed.

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