



## Roll Call Number

Agenda Item Number

31

Date February 9, 2026

### APPROVING SKYWALK AGREEMENT BETWEEN THE CITY OF DES MOINES AND FEDERAL HOME LOAN BANK OF IOWA

WHEREAS, on February 2, 2026 the City of Des Moines, Iowa and the Federal Home Loan Bank of Iowa (FHLB) closed a sale of the 9<sup>th</sup> and Locust Parking Garage, (the "Garage"), transferring title of the Garage to FHLB pursuant to approval in Roll Call Number 25-1422; and,

WHEREAS, the Garage is connected to the Des Moines Skywalk System by three separate Skywalk Bridges and a Skywalk Corridor within the Garage connecting to each Skywalk Bridge; and,

WHEREAS, because the Garage was previously owned by the City, no Skywalk Agreement was necessary with the City; and,

WHEREAS, now that the City no longer owns the Garage, FHLB executed a standard Skywalk Agreement with the City to provide for the connections to the Skywalk System; and,

WHEREAS, the City must now approve, execute and record the new agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The attached Skywalk Agreement by and Between the City of Des Moines, Iowa and the Federal Home Loan Bank of Iowa is hereby approved.
2. The Mayor is hereby authorized and directed to sign the Agreement, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature and record the Agreement with the Polk County, Iowa Recorder.

MOVED by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_.

FORM APPROVED: /s/ Thomas G. Fisher Jr.

Thomas G. Fisher Jr., Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
BARRON				
WESTERGAARD				
MANDELBAUM				
GATTO				
<b>TOTAL</b>				

MOTION CARRIED

APPROVED

Mayor

### CERTIFICATE

I, LAURA BAUMGARTNER, 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

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Prepared by: Thomas G. Fisher, Chief Deputy City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309  
515-283-4533

Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309

Taxpayer: No change

Title of Document: Skywalk Agreement

Grantor's Name: Federal Home Loan Bank of Iowa

Grantee's Name: City of Des Moines, Iowa

Legal Description: See pages 3-4, below.

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## **SKYWALK AGREEMENT**

By and Between

**THE CITY OF DES MOINES, IOWA**

and

**FEDERAL HOME LOAN BANK OF IOWA**

regarding 9<sup>th</sup> and Locust Parking Garage

**Recording Note:**

Only Exhibits "A", "B", and "D" and the sub-exhibits to such Exhibits are intended to be recorded with this Skywalk Agreement in the land records of the Polk County Recorder. A copy of this Skywalk Agreement with all exhibits attached shall be maintained on file in the office of the City Clerk of the City of Des Moines, Iowa.

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## Index of Exhibits to the Skywalk Agreement

### Exhibits:

- A - Schematic Plans of Skywalk System Improvements
- B - Certified List of Property Owners, Lessees and Encumbrances
- C - Not used (*No mortgagees*)
- D - Grant of Limited Skywalk Easements
- E - Not used (*Replaced by SUDAS insurance requirements*)
- F - Designation of a Vertical Access Facility
- G - Article IV of Chapter 102 of the City Code of the City of Des Moines, Iowa, 2000, as amended to the date of this Agreement ("Skywalk Ordinance")
- H - Not used (*No construction required*)

## **SKYWALK AGREEMENT**

(Non-standard language in *italics* or in Article XIV - Special Provisions)

THIS SKYWALK AGREEMENT (hereinafter "Agreement"), made and entered into this 30th day of January, 2026, by and between the CITY OF DES MOINES, IOWA, a municipal corporation, hereinafter referred to as the "City," and FEDERAL HOME LOAN BANK OF DES MOINES, a federally chartered corporation, referred to herein as FHLB.

Those parties hereto which are the owners of each property shall be generally referred to as "owners" and those parties with a leasehold or present possessory property interest other than the ownership in a particular property, which leasehold or other present possessory property interest is traversed by Limited Skywalk Easements or Nodal Areas, as hereinafter defined, shall be generally referred to as "Lessees." "Lessees" does not reference or include any person with a leasehold or other present possessory property interest in the portion of an owner's property which is not traversed by Limited Skywalk Easements or Nodal Areas. They shall be referred to collectively as "Owners/Lessees," or, in the singular, as an "Owner/Lessee."

WITNESSETH:

*WHEREAS, the parties have entered into a Purchase Agreement approved by the City of Des Moines on October 20, 2025(hereinafter referred to as the "Purchase Agreement" wherein FHLB agreed to purchase the property legally described below and,*

WHEREAS, the City, through the Metro Center Urban Renewal Project, has undertaken to develop a pedestrian Skywalk System within the Downtown Central Business District; and

WHEREAS, the City, pursuant to the Constitution and Laws of Iowa, is authorized to initiate, to integrate and operate the Skywalk System; and

*WHEREAS, upon closing of the Purchase Agreement, FHLB will have a property interest in the property, legally described below, which is within the Skywalk District and is connected to the Skywalk System:*

### Legal Description

The parcel shown in survey parcel 2025-124 and legally described as:

A PART OF LOTS 1, 2, 3, 4, 5 AND 6, C.H. RAWSON & CO'S SUBDIVISION OF A BLOCK INCLUDED IN CAMPBELL & MC MULLEN'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED

AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 4 WHICH IS 22.00 FEET SOUTHWEST OF THE SOUTHEAST CORNER OF SAID LOT; THENCE SOUTH 74°(DEGREES) 13'(MINUTES) 27"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOTS 4 AND 5, A DISTANCE OF 249.71 FEET TO A POINT BEING 10.00 FEET NORTHEASTERLY OF THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTH 15°22'45" WEST ALONG A LINE BEING 10.00 FEET EASTERLY OF AND PARALLEL TO THE WEST LINE OF SAID LOTS 5 AND 6, A DISTANCE OF 267.20 FEET TO A POINT BEING 13.00 FEET SOUTH OF AND PERPENDICULAR TO THE NORTH LINE OF SAID LOT 6; THENCE NORTH 74°11'47" EAST ALONG A LINE BEING 13.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOTS 6 AND 1, A DISTANCE OF 250.44 FEET TO A POINT BEING 22.00 FEET WESTERLY OF AND PERPENDICULAR TO THE EAST LINE OF SAID LOT 1; THENCE SOUTH 15°13'17" EAST ALONG A LINE BEING 22.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 1, 2, 3 AND 4, A DISTANCE OF 267.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.53 ACRES (66833 SQ. FT.)

Locally known as 801 Locust Avenue, Des Moines, Polk County, Iowa.

*WHEREAS, it is the desire of the parties to this Agreement that the following Skywalk Bridges, as hereinafter defined, be maintained and used as pedestrian walkways at the approximate locations shown on the plat attached hereto as Exhibit "A":*

<u>Bridge</u>	<u>Buildings Connected</u>	<u>Right-of-Way Crossed</u>
7E-8E	9 <sup>th</sup> and Locust Parking to R&T Lofts	8 <sup>th</sup> Street
8E-9E	9 <sup>th</sup> and Locust Parking to 909 Locust	9 <sup>th</sup> Street
8E-8F	9 <sup>th</sup> and Locust Parking to 801 Grand	Grand Avenue

*WHEREAS, it is the desire of the parties to this Agreement that certain Skywalk Corridors, as hereinafter defined, be used as pedestrian walkways through buildings owned by FHLB (referred to as the "Building") in accordance with this Agreement; and*

WHEREAS, it is the desire of the parties to provide for the possible future expansion of the Skywalk System beyond their properties; and

WHEREAS, such Skywalk Bridges and Skywalk Corridors are parts of the Skywalk System, as reflected on the Skywalk System Plan Map in effect on the date of this Agreement, a copy of which is on file in the Office of the City Clerk and is incorporated herein by this reference (hereinafter referred to as the "Skywalk System Plan Map").

NOW THEREFORE, in consideration of the mutual covenants herein contained, it is hereby agreed by and between the parties as follows:

## ARTICLE I - DEFINITIONS

The following definitions shall apply throughout this Agreement:

1. The "Skywalk System" shall be the planned skywalk system shown on the Skywalk System Plan Map and includes Skywalk Corridors, Nodal Areas, Skywalk Bridges and Vertical Access Facilities planned, at any given time, for inclusion in the Skywalk System, as well as those already included in the System.
2. A "Skywalk Corridor" is a skywalk-level pathway of the Skywalk System which is within, along or on top of a building or as part of a separate structure over private property and whose termini are Skywalk Bridges, other Skywalk Corridors or an opening in the building by which the Skywalk Corridor connects to the Skywalk Corridor in an adjacent building. The purpose of a Skywalk Corridor is the accommodation of public pedestrian travel from point to point at the skywalk level.
3. A "Skywalk Bridge" is a skywalk-level bridge from building or structure face to building or structure face which spans one and only one street or alley and which continues the Skywalk System pathway in a direction perpendicular or nearly perpendicular to the face of the building or structure to which it attaches. The purpose of a Skywalk Bridge is to permit public pedestrian travel at the skywalk-level across public rights-of-way.
4. A "Skywalk Bridge Project" is a project to construct and attach a Skywalk Bridge to a building or buildings and includes (a) Skywalk Bridge openings into abutting structures, (b) temporary closures, if any, of such openings, (c) finish treatment and sealing of such openings, (d) fire doors and atmospheric doors, if any, located at or near the ends of the Skywalk Bridge, (e) structural supports, if any, necessary to connect the Skywalk Bridge to the abutting structures, (f) the Skywalk Bridge, (g) related mechanical and electrical facilities located both on and off the Skywalk Bridge for heating, ventilating, air conditioning, lighting and roof drainage of the Skywalk Bridge and the connections necessary to tie such mechanical and electrical facilities into the respective systems of abutting buildings, and (h) insulated glass to the extent glass is used to enclose the Skywalk Bridge.
5. "Capital Repairs and/or Replacements" shall include capital improvements and capital expenditures, and as used herein shall be defined in the same manner as the term "capital expenditure" is defined and used in Section 263 of the Internal Revenue Code of 1986, as amended to date, and applicable Treasury Regulations, and interpretations thereof, and shall include, but shall not be limited to, major repairs to a Skywalk Bridge and to the electrical, heating, ventilating and air-conditioning equipment of such Skywalk Bridge.

6. A "Vertical Access Facility" is a pathway for pedestrians to move between the skywalk-level Skywalk Corridors and the ground-level public sidewalk and may consist of an escalator, stairs, elevator or other means of vertical transfer or a combination thereof, as well as the pathways between a Skywalk Corridor and the skywalk-level access to the means of vertical transfer and the pathway between the ground-level access to the means of vertical transfer and the public sidewalk. The primary public purpose of a Vertical Access Facility is to allow pedestrians to move between the skywalk-level and ground-level sidewalk systems. Each Vertical Access Facility shall be deemed a part of the Skywalk System to the extent provided for in this Agreement upon the acceptance of its designation as such by the City Council. However, each Vertical Access Facility shall remain under the ownership and control of those with interests in the building in which it is located.

7. A "Nodal Area" is an area in the Skywalk System where a pedestrian has the choice of two or more paths of travel such as the intersection of two or more Skywalk Corridors, the intersection of one or more Skywalk Corridors and one or more Vertical Access Facilities, or the lateral connection of a Skywalk Bridge to a point along the length of a Skywalk Corridor. The primary purpose of a Nodal Area is to provide sufficient area for pedestrians from different pathways to change paths and to use and enjoy aesthetic and functional amenities that enhance the Skywalk System. Therefore, a Nodal Area should be of greater dimension than the intersecting pathways. Each Nodal Area which exceeds the area of the Skywalk Corridors included in it shall be deemed dedicated to such public purpose if an easement therefor is offered to the City and accepted by the City Council.

8. The "Skywalk Commission" as used in this Agreement is the Urban Design Review Board and/or the Skywalk Committee thereof, as described and defined in Section 102-320 of the Municipal Code of the City of Des Moines, Iowa, as the same may be amended from time to time.

9. The "Skywalk Ordinance" consists of those ordinances of the City which are codified as Article IV of Chapter 102 of the Municipal Code of the City of Des Moines, Iowa, 2000, as amended to the date of this Agreement. A copy of the said Skywalk Ordinance is attached hereto as Exhibit "G."

## ARTICLE II - SKYWALK BRIDGES

1. *Skywalk Bridges 7E-8E, 8E-9E, 8E-8F across 8<sup>th</sup> Street, 9<sup>th</sup> Street, and Grand Avenue respectively have been constructed and are presently connected to the Building.*

2. *Not used.*

3. *The Skywalk Bridge mechanical and electrical systems are in place and shall continue to be maintained as presently situated unless the parties agree in writing to change them.*

4. *Not used.*

5. *Not used.*

6. *Not used.*
7. *Not used.*
8. *Not used.*
9. *Title to the Skywalk Bridges shall be in and remain at all times in City and shall constitute property devoted to public use and not held for pecuniary profit under Section 427.1(2), Code of Iowa, 2025, and shall constitute public property acquired and held for urban renewal purposes.*

### ARTICLE III - WALL OPENINGS

No non-City party hereto shall permit the Owner/Lessee of any adjacent property to have or maintain a wall opening or other access into such party's Building at the skywalk-level until City notifies such party that the Owner/Lessee of such adjacent property has entered into a Skywalk Agreement with City. Upon such notification, if the two buildings do not share a common wall, the Owner/Lessee of each building to be connected shall be responsible jointly and severally to provide any necessary wall opening or other access at the skywalk-level in the building of which they are the Owner/Lessee; or if the buildings share a common wall through which such connection is to be provided, both sets of Owners/Lessees shall be jointly and severally responsible to provide such wall opening or other access to the skywalk-level.

### ARTICLE IV - SKYWALK CORRIDOR

1. (a) *As consideration to City for City commitments under this Agreement, the Owner/Lessee of each property concurrently herewith grants Limited Skywalk Easements across its property in the form attached hereto as Exhibit "D," including Skywalk Corridor easements, Skywalk Bridge extension easements and Skywalk construction easements, for the purpose of allowing a free flow of pedestrian traffic across the Skywalk System on its property during Skywalk System hours. In the event any such Limited Skywalk Easement, or a portion thereof, shall terminate, this Agreement shall continue in full force and effect as to any remaining unterminated easements or portions thereof.*

(b) The Limited Skywalk Easements which the Owner/ Lessee of each property must grant concurrently herewith are those easements necessary to develop the Skywalk System to such property and/or through such property as shown on the Skywalk System Plan Map. The parties to this Agreement shall have no obligation, now or in the future, to provide any easement through, on or over their respective properties which correspond with any Skywalk Corridor or Skywalk Bridge added to the Skywalk System Plan Map by any subsequent amendment thereto, unless the Owner/Lessee of the particular property to be burdened with such easement consents thereto.

2. *The Skywalk Corridor in the Building has been constructed.*

The Owner/Lessee of a Building upon which one or more Skywalk Corridors have been constructed shall retain sole and full control over the construction, appearance and treatment of such Skywalk Corridors, including but not limited to, wall coverings, floor coverings, lighting, entrances and exits. All Skywalk Corridors shall be constructed so as to comply with the minimum design standards set forth in Section 102-329 of the Skywalk Ordinance.

3. Title to a Skywalk Corridor and any improvements thereon shall be and remain, respectively, in the parties hereto who are the Owners/ Lessees of the Building upon which such Skywalk Corridor is located.

#### ARTICLE V - CASUALTY LOSS AND DEMOLITION

1. In the event a Skywalk Bridge is damaged, destroyed, demolished or altered to the extent that it is no longer usable, City shall immediately create a temporary Vertical Access Facility to the ground-level and back to the skywalk-level around the damaged or destroyed Skywalk Bridge and, as soon as reasonably practicable, reconstruct the Skywalk Bridge at City's expense; provided, however, that the expense of reconstructing those items whose costs of construction were borne by the abutting Building Owners/Lessees at the time of the original construction of the Skywalk Bridge Project shall be borne by such abutting Building Owners/Lessees.

2. In the event a Skywalk Corridor in a City-owned Building is so damaged, destroyed, demolished or altered that it is no longer usable, City shall immediately either provide a temporary route around the damaged portion or create a temporary Vertical Access Facility to the ground level and back to the skywalk-level around the area damaged and shall reconstruct or otherwise replace the Skywalk Corridor at City's expense as soon as reasonably practicable and in any event within three years, unless the City Council for good cause shown extends said three-year period.

3. In the event that a Skywalk Corridor in a non-City owned Building is so damaged, destroyed, demolished or altered that it is no longer usable, the Owner/Lessee of such Building shall immediately provide either a temporary route around the damaged portion or create a temporary Vertical Access Facility to the ground-level and back to the skywalk-level around the area damaged, and shall reconstruct or otherwise replace the damaged portion of the Skywalk Corridor as soon as reasonably practicable and in any event within three years, unless the City Council for good cause shown extends such three-year period.

#### ARTICLE VI - VERTICAL ACCESS FACILITIES AND NODAL AREAS

1. The Owner/Lessees of all Buildings which are subject to this agreement and the owners of the buildings on contiguous properties in the square block in which such Buildings are located and which are served by the Skywalk System (hereinafter "the responsible building owners") are jointly and severally

responsible for providing at least one designated Vertical Access Facility in that square block which is accessible to and usable by handicapped persons.

A Vertical Access Facility shall permit pedestrians who use the Skywalk System a right of access between the Skywalk Corridors and the ground-level public sidewalk by means of stairs and elevators, or escalators and elevators, or elevators alone. Designated Vertical Access Facilities for each such square block are provided by the means and at the locations set forth in Exhibit "F".

Once a Vertical Access Facility has been designated it shall remain a Vertical Access Facility until a replacement Vertical Access Facility has been designated in that square block and a Replacement Exhibit "F", is served on all responsible building owners in such square block and filed for record in the Office of Recorder of Polk County, Iowa, by the responsible building owners in such square block, at their cost, subject to the following terms and conditions:

- (a) The Owner/Lessee of a building in which is located the designated Vertical Access Facility for a square block may, in its sole discretion, designate different stairs, escalators, or elevators and pathways to and from such facilities within its building as the designated Vertical Access Facility for such block.
- (b) The responsible building owners may designate a Vertical Access Facility in a different building in such square block by agreement among themselves or, if they cannot agree, by arbitration as provided in (e) below.
- (c) In the event the Skywalk Agreement of the Owner/Lessee in whose building a designated Vertical Access Facility is located is to terminate as to such building, then the remaining responsible building owners in that square block, by agreement or, if they cannot agree, by arbitration as provided in (e) below, shall designate a Vertical Access Facility in a different building in such square block on or before the effective date of such termination.
- (d) Notwithstanding anything contained in this Article, in the event that the building in which a designated Vertical Access Facility is located is so damaged or destroyed as to be unusable, the Owner/Lessee of such building shall not be responsible to provide a Vertical Access Facility on such property for the period of time provided in Section 102-328(a)(3) of the Skywalk Ordinance. In such event the responsible building owners in such square block shall designate a new Vertical Access Facility other than in the damaged or destroyed building. If such building is so damaged or destroyed in order to permit repair, remodeling or redevelopment, then the responsible building owners in such square block shall designate the new Vertical Access Facility, either by agreement or by arbitration, as provided in (e) below, prior to commencement of repair of such damage or destruction. If such damage or destruction is caused by casualty, the responsible building owners in such square block shall designate a new Vertical Access Facility, either by agreement within fifteen (15) days after such damage or destruction or by arbitration, as provided in (e) below, initiated within such fifteen (15) day period.

(e) If at any time the responsible building owners in a square block cannot agree on any matter related to their respective responsibilities to provide a Vertical Access Facility in such square block, and cannot agree on a method for resolving such differences then, to resolve such matter, any such responsible building owner can invoke arbitration between the responsible building owners in such block in the manner provided in paragraph 2 of Article XII of this Agreement. The arbitration decision shall be based on the physical proximity of potential Vertical Access Facilities to the Skywalk System, the expected flow and volume of Skywalk System traffic in this square block, the suitability of potential Vertical Access Facilities for their regular usage and expected usage in connection with the Skywalk System and an equitable distribution among the responsible building owners of the economic and physical responsibilities related to provision of a designated Vertical Access Facility.

(f) The right of access provided by a Vertical Access Facility shall be subject to the following terms and conditions:

- (i) Such access shall be for the purpose of pedestrian ingress, egress and transit only.
- (ii) Such right of access shall be limited to the regular building or business hours of the building or business in which such Vertical Access Facility is located (which hours the Owner/Lessee of the building may determine in its sole discretion), or the hours the Skywalk System must remain open in such building, whichever are less; provided, however, that the right of access may be made available during hours in which the Skywalk System is open but which are greater than regular building or business hours at the option of the owner of the building in which such Vertical Access Facility is located. During the hours that any Vertical Access Facility is not required to be available for access, the Owner/Lessee of the building in which such facility is located shall have exclusive control of such facility without limit by any provision contained herein.
- (iii) Any pedestrian using a Vertical Access Facility shall be subject to such reasonable rules and regulations as the Owner/Lessee of the building in which said facility is located in its sole discretion may impose including, but not limited to, the conduct of any pedestrian, the specific route of such access, reasonable precautions for security purposes, and otherwise. Such rules and regulations may be promulgated and uniformly enforced as the occasion arises.
- (iv) Nothing contained in this Article VI shall be construed to grant any rights to the public, nor shall such right of access be determined as a public right-of-way or easement.
- (v) Said elevators shall be available in accordance herewith for the use of handicapped persons.
- (vi) During the operational hours of that portion of the Skywalk System in which the facility is located, City shall operate and maintain an elevator in each City parking facility which is connected to the Skywalk System.
- (vii) Title to each Vertical Access Facility shall be and remain in the owner of the building in which each facility is located.

(viii) By execution of this Agreement, including Exhibit "F", the City hereby acknowledges that the Vertical Access Facilities designated herein satisfy all of the foregoing requirements for Vertical Access Facilities.

2. Any party hereto may, at any time, grant City a public easement for a Nodal Area for the Skywalk System which exceeds the Skywalk Corridor dimensions. Such easement shall be for the use and benefit of the public as a public way for pedestrian ingress, egress and transit in, through and over the property of the party granting the easement and providing structures thereon and for use as a location for Skywalk System amenities. If granted, such party may erect or provide only those benches, sculptures, plantings or other amenities in such easement area as permitted by the Skywalk Ordinance. Such party shall be solely responsible for the operation, maintenance and repair of the easement areas and any amenities erected or provided therein, in the same manner as for the adjacent Skywalk Corridor. Title to Nodal Areas shall be and remain in the respective parties hereto upon whose property such facilities are located.

## ARTICLE VII - OPERATION, MAINTENANCE AND REPAIR

1. The non-City Owners/Lessees of Buildings at the ends of each Skywalk Bridge agree to be responsible to City to operate, maintain and repair such Skywalk Bridge, its parts and related equipment in conformance to the minimum standards for operation, maintenance and repair thereof as provided in the Skywalk Ordinance and as contained herein. The Owner/Lessee, including City, of each building connected to a Skywalk Bridge shall be jointly and severally liable for that share of the cost of operation, maintenance and repair of such Skywalk Bridge which is equal to 1/N, where N equals the number of buildings abutting such Skywalk Bridge at any given time which buildings are included in the Skywalk System by a Skywalk Agreement then in effect. City, as owner of the Buildings connected to the following Skywalk Bridges, hereby agrees to pay 1/Nth of the cost of operation, maintenance and repair of each such Skywalk Bridge, to be remitted monthly upon receipt of an itemized statement of the prior month's expense to the following non-City Owners/Lessees connected to such Skywalk Bridge who shall cause such operation, maintenance and repair to be done:

<u>Skywalk Bridge</u>	<u>Remitted to</u>
<i>(not applicable - no Skywalk Bridges to City owned buildings)</i>	

In addition to anything else required by the Skywalk Commission, as determined pursuant to its decision making powers under the Skywalk Ordinance, such operation, maintenance and repair of the Skywalk Bridge shall include:

(a) operation, maintenance and minor repair of the electrical, heating, ventilating, air conditioning and drainage facilities in and servicing the Skywalk Bridge;

(b) keeping and maintaining the Skywalk Bridge and its parts in repair, including but not limited to, polishing, roof maintenance, repainting, light bulb replacement, light fixture cleaning and replacement of damaged glass in windows; and

(c) keeping the Skywalk Bridge reasonably clean and free of litter and debris.

Major repairs to the Skywalk Bridges and major repairs to electrical, heating, ventilating and air conditioning equipment used in conjunction with such Skywalk Bridges shall be performed by City as needed and at the sole expense of City. City shall give at least ten (10) days prior written notice to the Owners/Lessees of Buildings abutting a Skywalk Bridge before commencing Significant Capital Repairs and Replacements (as that phrase is defined in Article IX, paragraph 2(b) herein) to a Skywalk Bridge.

The Owners/Lessees under this or any other skywalk agreement with City, or their designees, shall have the right to come onto any Skywalk Bridge for which they are responsible for operation, maintenance and repair, for purposes of providing such operation, maintenance and repair.

The obligations and responsibilities for operation, maintenance and repair of each Skywalk Bridge shall commence on the date the City Council of City enacts a resolution declaring such Skywalk Bridge dedicated to the Skywalk System and directing it be depicted on the Official Skywalk Map.

2. The Owner/Lessee of each Building shall jointly and severally bear the entire costs of operation, maintenance and repair for such Skywalk Corridors and Nodal Areas as are located on the choate Skywalk Corridor easements and Nodal Area easements in the Building of which they are the Owner/Lessee in accordance with the minimum standards for operation, maintenance and repair of skywalk Corridors as determined under the terms of the Skywalk Ordinance.

3. In addition to anything else required by the Skywalk Commission, as determined pursuant to its decision making powers under the Skywalk Ordinance, the Owner/Lessee of each Building shall jointly and severally provide surveillance of and on the Skywalk Corridors and Nodal Areas located on choate Skywalk Corridor easements and Nodal Area easements in such Building and surveillance of and on each Skywalk Bridge connected to such Building, all in conformance to the minimum standards for such surveillance as determined under the terms of the Skywalk Ordinance. If as a result of such surveillance, or otherwise, an Owner/Lessee has knowledge of a violation of law, such Owner/Lessee, in its sole discretion, either shall undertake the initial action to handle the situation or shall immediately contact the City police department. The City shall be responsible at least to provide customary City police protection to the Skywalk Bridges and Skywalk Corridors in the same manner as it provides police protection to other private and public properties within the corporate limits of the City.

4. (a) The Owner/Lessee of each Building shall jointly and severally furnish and maintain public liability insurance coverage with a duly licensed insurance company on those portions of the Skywalk System located upon choate Limited Skywalk Easements within the property of which they are the Owner/Lessee and any party granting a Nodal Area easement shall furnish and maintain such public liability insurance on such Nodal Area easements. City shall be designated as an additional insured

on such policies, and said insurance shall be in conformity with the requirements of Section 102-328(a)(7) of the Skywalk Ordinance. Such insurance policies shall contain at least the following minimum coverages: (1) for personal injuries including death, \$1,000,000.00 for each occurrence, and (2) for property damage, \$500,000.00 in any single accident. Such minimum amounts shall be subject to increase in increments of up to an aggregate of 50% in any five-year period by official action of the City Council of City from time to time.

(b) The Owner/Lessee of each property shall jointly and severally furnish and maintain casualty insurance coverage with a duly licensed insurance company on all areas of the Skywalk System on the property of which they are the Owner/ Lessee. Such casualty insurance shall have an all risks of physical loss coverage in an amount sufficient to rebuild the portion of the Skywalk System on choate Skywalk Corridor easements and Skywalk Bridge extension easements on the property of which they are the Owner/Lessee.

(c) Owners/Lessees shall file proof of such insurance with the City Clerk immediately after an easement herein granted becomes choate, and thereafter annually on or before the anniversary date of this Agreement.

5. The non-City parties hereto may enter into separate written agreements among themselves or with others to provide for discharge of their responsibility for operation, maintenance and repair of the Skywalk Bridges, Skywalk Corridors and Nodal Areas herein and may agree to apportion the costs therefor as among themselves in any fashion they deem appropriate; provided, however, that such agreements shall not, except as otherwise provided herein, serve to relieve any such non-City party of the primary responsibility for timely performance of its duties under this Agreement or from the covenants pertaining thereto.

6. In the event any Skywalk Bridge, Skywalk Corridor or Nodal Areas is not adequately operated, maintained or repaired in accordance with the minimum standards provided in the Skywalk Ordinance and as contained herein and such deficiency is not remedied within thirty (30) days after written demand thereof by City served upon the Owners/ Lessees responsible therefor under paragraphs 1 or 2 of this Article or paragraph 2 of Article VI, City may provide such operation, maintenance or repair and assess the cost of performing such operation, maintenance or repair against such party upon reasonable notice and hearing before City Council. City shall have the right to collect such costs against each such party by special assessment in the manner set forth in Section 364.12 or 384.38 of the Code of Iowa, or by suit for breach of contract or in any other manner provided by law.

7. The Owners/Lessees under this Skywalk Agreement and their successors and assigns shall become members in good standing of the Des Moines Skywalk Association or any other business organization that provides Skywalk security and surveillance pursuant to a valid Iowa Code Chapter 28E Agreement with the City.

## ARTICLE VIII - GENERAL SKYWALK SYSTEM RULES

1. Skywalk Corridors and Skywalk Bridges shall be open for public pedestrian travel between the hours of 6:00 A.M. and 2:00 A.M. seven days a week; provided, however, that the Skywalk Commission may approve or disapprove a request by any person to change the hours of operation for any portion of the Skywalk System (except Vertical Access Facilities), provided such change does not reduce the hours that portion of the Skywalk System is open to less than the above minimum hours. A request to extend the hours a portion of the Skywalk System is open, signed by all parties to this or any other Skywalk Agreement with property interests abutting Skywalk Bridges or containing Skywalk Corridors on the portion of the Skywalk System proposed to be affected by the change and providing for payment of all operation, maintenance and repair costs on that portion of the Skywalk System during such extended hours, shall be deemed granted upon notice to the Skywalk Commission. Any other request to extend the hours a portion of the Skywalk System shall remain open shall be granted upon evidence that there will be substantial usage of that portion of the Skywalk System during such hours, provided those persons requesting such extension of hours present the Skywalk Commission with an executed agreement providing for payment of all operation, maintenance and repair costs on that portion of the Skywalk System during such hours. The Skywalk Commission may approve, or may approve subject to such reasonable conditions as are necessary to protect the interests of other persons along the affected portion of the Skywalk System, or may disapprove, a request to change hours of operation, but if the Skywalk Commission does not approve or disapprove a proposed change in hours within fifteen (15) days of the date such request is filed with the Skywalk Commission, the proposed change shall be deemed approved. The Skywalk Bridges, Skywalk Corridors and Vertical Access Facilities which are designated by the City Council as fire exits or paths to fire exits must be open in accordance with the applicable fire ordinances, as the same may be from time to time amended.

2. The location and format of Skywalk logos, Skywalk System Map and Route Directories, Skywalk directional signs and Skywalk building identification signs shall be in accordance with the policy therefor set as provided in the Skywalk Ordinance. The costs of purchase, installation and revision of all Skywalk System signs shall be borne by City. The costs of operating, maintaining and repairing the signs shall be borne by those responsible for operation, maintenance and repair of that portion of the Skywalk System in which each sign is located. If the location of a Skywalk Corridor easement or Nodal Area easement is changed, the signs shall be removed accordingly, and the cost of moving and re-installing signs to a new Skywalk Corridor easement area or Nodal Area easement shall be borne by the Owner/Lessee of the Building in which the signs were originally located. If the sign moving requires a change in the sign face, this shall be done at such Owner's/Lessee's expense and consistent with the graphic design system established for Skywalk signs.

3. No signs of any type shall be erected or maintained in Skywalk Corridor easement areas or Skywalk Bridges except Skywalk logos, Skywalk Map and Route Directories, Skywalk directional signs and Skywalk building identification signs as provided for in the Skywalk Ordinance, and except signs designating hours of operation and signs designating smoking and no-smoking areas as provided by law. Owners/Lessees may erect and maintain any signs they wish on private property adjacent to the Skywalk Corridor easement areas, so long as such signs are not so similar to Skywalk graphics as to cause confusion on the part of pedestrians.

## ARTICLE IX - TERMINATION

1. (a) Notwithstanding any provision herein which may appear to be the contrary, each owner herein reserves unto itself the unconditional right and privilege to sell, convey, or otherwise transfer the entirety of its interest in its Building and the real estate underlying such Building, and as a part of such transaction to assign and transfer its rights and duties under this Agreement to any such purchaser or other transferee of such Building and real estate. In the event of such sale, conveyance, or other transfer of the entirety of its interest, from and after the date of such sale, conveyance, or other transfer, an owner shall be freed and relieved, of all liability with respect to the performance of any covenants or obligations on the part of such owner contained in this Agreement thereafter to be performed; provided, however, that such purchaser or other transferee shall fully and without limitation assume in writing all duties, responsibilities and covenants of the owner under this Agreement. The owner promptly shall give City notice of such transfer, the property interest transferred, the identity of the purchaser or other transferee and the date of such transfer; shall furnish City with a copy of the document by which such purchaser or other transferee assumed the duties, responsibilities and covenants hereunder of such owner; and shall file for record in the Office of the Recorder of Polk County, Iowa, a document setting forth at least the identity of the purchaser, or other transferee, the property interest transferred, the date of such purchase or other transfer and the provisions of such purchase or other transfer whereby such purchaser or other transferee assumed the duties, responsibilities and covenants hereunder of such owner.

(b) Notwithstanding any provision herein which may appear to be to the contrary, each Lessee herein reserves unto itself the unconditional right and privilege to assign or otherwise transfer the entirety of its interests in a Building and, as applicable, in the real estate underlying such Building, and as a part of such transaction to assign and transfer its rights and duties under this Agreement to any such assignee or other transferee of such interest. In the event of such assignment or other transfer of the entirety of its interest, from and after the date of such assignment or other transfer a Lessee shall be freed and relieved of all liability with respect to the performance of any covenants or obligations on the part of such Lessee contained in this Agreement thereafter to be performed; provided, however, that such assignee or other transferee shall fully and without limitation assume in writing all duties, responsibilities and covenants of Lessee under this Agreement. The Lessee promptly shall give the City notice of such transfer, the property interest transferred, the identity of the assignee or other transferee and the date of such transfer; shall furnish the City with a copy of the document by which such assignee or other transferee assumed the duties, responsibilities and covenants hereunder of such Lessee; and shall file for record in the Office of the Recorder of Polk County, Iowa, a document setting forth at least the property interest transferred, the identity of the assignee or other transferee, the date of such transfer and the provisions of such assignment, sublease or other transfer whereby such assignee or other transferee assume the duties, responsibilities and covenants hereunder of such Lessee.

In addition, in the event that a Lessee's present possessory interest in a Building terminates in accordance with the terms of the instrument by which such interest was created, other than by assignment or other transfer of such interest, then such Lessee's duties and obligations under this Agreement shall terminate. Such termination shall not relieve the owners and, if any, other Lessees who are parties to this Agreement,

who continue to have a present possessory interest in such Building, of their duties and obligations under this Agreement. Such Lessee shall give City fourteen (14) days written notice of the termination of its duties and obligations under this Agreement.

After the expiration of such possessory interest, the owner of the property either: 1) shall not lease or otherwise create a present possessory interest in that portion of its property which is subject to any Skywalk Corridor easement or Skywalk Bridge extension easement, whether choate or inchoate, and shall subordinate any lease or other present possessory interest thereafter granted to the construction easements granted City by owner in its Limited Skywalk Easements; or 2) shall require the person to whom it leases a portion of its property which is subject to any Skywalk Corridor easement or Skywalk Bridge extension easement to become a party to this Skywalk Agreement, in which case such person shall be treated as if it had been a party from the original date of this Agreement, provided, however, it shall not be responsible for any duties and obligations under the terms of this Agreement for a time prior to the date it actually becomes a party hereto.

2. This Agreement shall terminate with respect to a particular Owner/Lessee upon the occurrence of any of the following events:

(a) (1) In the event that a Skywalk Bridge connecting to such Owner's/Lessee's Building is taken by the power of eminent domain or abandoned by City (pursuant to then applicable law), then such Owner's/Lessee's obligations under this Agreement shall terminate for such Skywalk Bridge and any portion of a Skywalk Corridor located on any portion of a Skywalk Corridor easement which is choate solely by reason of the inclusion of such Skywalk Bridge in the Skywalk System.

(2) In the event that a portion of an Owner's/ Lessee's Building is taken by the power of eminent domain, then such Owner's/Lessee's obligations under this Agreement shall terminate as to any Skywalk Bridge connected to that portion of the Building taken and as to so much of the Skywalk System on that property which is or could become choate solely by reason of the portion of the Skywalk System contained in that portion of the Building taken.

(b) Any time on and after thirty (30) years from the date of this Agreement, the Owner/Lessee of a non-City-owned Building may jointly terminate this Agreement as to such Building (including any Skywalk Bridge extension easements abutting such Building) upon at least two (2) years prior written notice to the other parties hereto, which notice may be given at any time after twenty-eight (28) years from the date of this Agreement; provided, however:

(1) that if City makes Significant Capital Repairs or Replacements to a Skywalk Bridge abutting such Owner's/Lessee's Building on or before fifteen (15) years from the date of this Agreement, then they cannot so terminate this Agreement until twenty-five (25) years after completion of such Significant Capital Repairs or Replacements or thirty (30) years from the date of this Agreement, whichever is later; provided that in such event the prior written notice

of termination referred to above in this subparagraph may be given at any time after twenty-three (23) years from the completion of such Significant Capital Repairs and Replacements or twenty-eight (28) years from the date of this Agreement, whichever is later; and

(2) that if City makes Significant Capital Repairs or Replacements to a Skywalk Bridge abutting such Owner's/Lessee's Building after fifteen (15) years from the date of this Agreement, then they cannot so terminate this Agreement until any time on or after forty (40) years from the date of this Agreement; provided that in such event the prior written notice of termination referred to above in this subparagraph may be given at any time after thirty-eight (38) years from the date of this Agreement.

"Significant Capital Repairs or Replacements" shall include only those Capital Repairs or Replacements for which City expends money not derived from insurance or the proceeds of a judgment awarded City in an amount which exceeds 50% of the original cost of the Skywalk Bridge to which such Capital Repairs or Replacements are to be made as such original cost is increased or decreased by the change in the index for "Building Cost" for Kansas City contained in Engineering News-Record from the date of award of the contract for original construction of the Skywalk Bridge to the last known figure for such component prior to the date of first Council action on such proposed Significant Capital Repair or Replacement.

(c) City may vacate, abandon or discontinue, in the manner then required by applicable law, the Skywalk Bridge between any two buildings at any time on or after thirty (30) years from the date of this Agreement, provided that it gives at least two (2) years written notice to the Owners/Lessees of such building and to the other parties hereto (which notice may be given at any time after twenty-eight (28) years from the date of this Agreement); provided, further, that if such Skywalk Bridge needs Significant Capital Repairs or Replacements after fifteen (15) years from the date of this Agreement or from the date when such Capital Repairs or Replacements were last made, City may, after written notice to Owners/Lessees of such Buildings, elect to so vacate, abandon or discontinue such Skywalk Bridge in the manner then required or permitted by applicable law, instead of making such Significant Capital Repairs or Replacements. City may not otherwise vacate, abandon or discontinue any Skywalk Bridge.

(d) An Owner or Lessee may at any time terminate any easement granted for a Nodal Area and its obligations hereunder for such Nodal Area upon three (3) weeks written notice to the City.

(e) Notwithstanding the above, after termination of the obligations of this Agreement as to a specific Skywalk Bridge, City shall have the right to leave such Skywalk Bridge in place, unless all Owners/Lessees (which Owners/ Lessees are parties to this or any other Skywalk Agreement) of abutting buildings by written notice to City demand its removal, in which case City shall remove the Skywalk Bridge at City expense. In the event City initiated such termination (which shall include vacation, abandonment or discontinuance pursuant to subparagraph (c) above), City shall provide at City expense appropriate interim closures of the Skywalk Bridge openings into such abutting buildings for as long as such Skywalk Bridge remains in place and shall restore the Skywalk Bridge openings to match the buildings to which it attaches upon its removal. In the event any non-City party initiated such termination,

the Owner/Lessee (which Owner/Lessee is a party to this or any other Skywalk Agreement) of each abutting building which no longer has access to such Skywalk Bridge as a result of such termination jointly and severally shall provide at their expense an appropriate interim closure of the Skywalk Bridge opening to the building of which they are the Owner/Lessee for as long as such Skywalk Bridge remains in place, and in the event such Skywalk Bridge is removed upon demand of a non-City party, the Owner/Lessee (which Owner/Lessee is a party to this or any other Skywalk Agreement) of each abutting building shall jointly and severally provide at their expense a permanent closure of the Skywalk Bridge opening to the building of which they are the Owner/Lessee.

(f) Upon the termination of any easement or portion of an easement under the terms of a Limited Skywalk Easement granted herewith, the terms and provisions of this Agreement terminate with respect to such easement area.

3. Any termination pursuant to the provisions of this Article IX of all or part of a party's responsibilities and obligations under this Agreement shall refer wholly to future responsibilities and obligations of such party and shall not relieve such party of liability for any responsibilities and obligations which have accrued as of the effective date of such termination or as to which there is or may be a pending claim or claims.

4. Insolvency or bankruptcy of a party shall not terminate this Skywalk Agreement as to that party.

5. The parties agree that they shall have no cause of action against any party to this Agreement or to any other Skywalk Agreement with City who exercises that party's right to terminate such agreement and the Limited Skywalk Easements granted therewith arising from the exercise of such right of termination.

The parties further agree that if any of them, by any action or omission, except a valid exercise of a right of termination contained in this Agreement or in any Limited Skywalk Easements to which they are a party, fails to comply with the terms and conditions of this Agreement or cause diminution or loss of access to the Skywalk System to any other party to this Agreement or to any other Skywalk Agreement, such failure shall constitute a breach hereunder and any such other party shall have a cause of action against the party so acting or failing to act for specific performance of this Agreement. Each party to this Agreement hereby waives any claim to money damages, except court costs and except to the extent that the breach is of a term or condition of this Agreement requiring payment of money, as remedy for such breach of contract.

## ARTICLE X - COVENANTS RUNNING WITH THE LAND

1. Except as otherwise provided in Article IX, the respective rights and obligations of the parties set forth in this Agreement shall be binding upon and inure to the benefit of the respective parties and their successors and assigns as if they and each of them had personally made such Agreement; and shall be deemed covenants which run with the land, as follows:

(a) those covenants by City with respect to any Skywalk Bridge shall run to any party who is a party to this or any other Skywalk Agreement with City;

(b) those covenants by City with respect to its obligations to provide Skywalk Corridors, Nodal Areas and Vertical Access Facilities under this or any other Skywalk Agreement shall run to any party who is a party to this or any other Skywalk Agreement with City; and

(c) those covenants by the Owners/Lessees who are parties to this Agreement shall run to City and to any other party who is a party to this or any other Skywalk Agreement with City;

and shall continue in force until such time as this Agreement or the Limited Skywalk Easements are terminated pursuant to their respective terms.

2. City shall include paragraph 1 of this Article in all its Skywalk Agreements.

3. This Agreement shall be filed of record in the Office of the Recorder for Polk County, Iowa, as shall all amendments hereto except Exhibit "G" - Skywalk Ordinance. A copy of Exhibit "G" is on file and available for inspection by the public in the office of the City Clerk of City. This Agreement and any amendment hereto shall be valid notice to and binding upon future purchasers, lessees and other transferees of property subject to this Agreement and other parties acquiring an interest in such property subsequent to the date of recording of this Agreement, but only to the extent that this Agreement and any amendments hereto are duly filed of record in the Office of the Recorder for Polk County, Iowa, prior to the date upon which any such sale, conveyance, lease or other transfer is made. In no event shall any purchaser, lessee or other transferee of property subject to this Agreement or subject to any amended version of this Agreement or any other party acquiring an interest in such property be considered to have had notice of any provision of this Agreement or amendment hereto unless such provision or amendment was duly filed or recorded in the Office of the Recorder of Polk County, Iowa, prior to the date upon which such purchase, lease or other transfer was made.

## ARTICLE XI - TAXATION

1. During the duration of this Agreement, the property dedicated by City for the Skywalk System, the area of Owner's/Lessee's property included within the Limited Skywalk Easements and Nodal Area Easements and the improvements thereon shall be exempt from all taxes of the municipality, the county, the State, or any political subdivision thereof within the meaning of subsection 2 of Section 403.11 and subsection 2 of Section 427.1 of the Code of Iowa.

2. City shall join with any of the individual parties hereto, or their successors or assigns, in any request to any governmental body that such Limited Skywalk Easement areas, Skywalk Corridors, Nodal Areas, and portions of Skywalk Bridges or Skywalk Bridge Projects paid for or provided by such parties, and the improvements thereon, be free from taxation.

3. Nothing in this Agreement shall be construed to hold the City liable, in whole or in part, for any taxes levied or assessed against the area of Owner's/Lessee's property included within the Limited Skywalk Easements or Nodal Area Easements or the improvements thereon.

## ARTICLE XII - ARBITRATION

1. Any party hereto aggrieved by a decision of the Skywalk Commission made under a decision-making power granted it by the Skywalk Ordinance may request arbitration as provided in Section 102-325 of the Skywalk Ordinance.

2. Whenever this Agreement expressly permits arbitration of a specific disagreement under the terms of this Agreement, arbitration shall be conducted by a single arbitrator as follows:

The party seeking such arbitration shall give written notice of invocation of arbitration to all other parties whose property abuts the Skywalk Bridge Project which is the subject of such arbitration and which parties are parties to this Agreement or to another Skywalk Agreement and to the American Arbitration Association (AAA). All parties who elect to participate in such arbitration shall notify the other potential parties and the AAA of their election within seven (7) days of the service of notice of invocation of arbitration. The AAA shall supply a list of potential arbitrators containing one name more than the number of parties who elect to participate in the arbitration. If the parties to the arbitration cannot agree on an arbitrator, they, in an order determined by lot, shall each strike one name from the list. The person whose name remains shall be the arbitrator and shall conduct the arbitration in accordance with the rules of the AAA, except that he or she shall render a decision within fifteen (15) days of the last submission of evidence or argument on the matter. The arbitration decision shall be consistent with the terms and provisions of this Agreement, the Limited Skywalk Easements and the Skywalk Ordinance. The party or parties who do not prevail shall bear the costs of arbitration, but if in the opinion of the arbitrator no party prevailed or failed to prevail on any issue, then the arbitrator shall apportion the costs of arbitration as appears just. The decision of the arbitrator shall be final and binding upon the parties to the arbitration; provided, however, that any party to such arbitration may appeal the decision of the arbitrator for any ground on which binding arbitration may be appealed to a court pursuant to common law by filing its appeal within ten (10) days from the date of such arbitration decision in the District Court for Polk County, Iowa.

3. Except as expressly allowed by this Agreement, no dispute arising from this Agreement may be resolved by arbitration without the express consent of all parties to said dispute.

## ARTICLE XIII - GENERAL PROVISIONS

1. This Agreement and the Limited Skywalk Easements granted concurrently herewith are subject to the terms and conditions of the Skywalk Ordinance as amended to the date hereof. Except as hereinafter provided, in the event of any conflict between this Agreement or any Limited Skywalk Easements granted

concurrently herewith and said Skywalk Ordinance, the provisions of said Skywalk Ordinance shall control; in the event of any conflict between this Agreement and any Limited Skywalk Easements granted herewith, such Limited Skywalk Easements shall control. No amendment of said Skywalk Ordinance by the City shall affect the rights, duties and obligations of the parties hereto unless the terms of this Agreement shall conform to and be consistent with such amendment or this Agreement shall be duly amended pursuant to paragraph 3 of this Article XIII to render the terms of this Agreement in conformance and consistent with any such amendment to said Skywalk Ordinance. This Agreement may assign duties and responsibilities in addition to those contained in the Skywalk Ordinance as long as not in mutually exclusive direct conflict with the terms of said Skywalk Ordinance.

2. (a) In the event one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(b) In the event one or more of the terms or provisions contained in the Limited Skywalk Easements granted concurrently herewith or the Skywalk Ordinance shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any provision of this Agreement not also held to be invalid, illegal or unenforceable, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained therein.

3. This Agreement may be amended only by the mutual written consent of all parties hereto. No such amendment shall be interpreted as amending the date of this original Agreement for purposes of Article IX on termination, unless such amendment expressly so provides.

4. City hereby waives any right it may have to share in an award of damages in the event that a public body acquires all or any part of the Owner's/Lessee's properties by condemnation or under the threat of condemnation. Said waiver applies to the areas of Owner's/Lessee's property included within the Limited Skywalk Easements and improvements thereon, Vertical Access Facilities on or through the respective Buildings or properties and any interest of Owners/Lessees in the Skywalk Bridges, but not to that portion of Skywalk Bridges owned by City itself.

5. The Owners/Lessees of each property tender herewith to City, respectively as to each property, certified lists of property owners, lessees and encumbrances, which lists are attached hereto as Exhibit "B" and by this reference incorporated herein, and subordinations of mortgages, or other property interests, attached hereto as Exhibit "C", if applicable, and by this reference incorporated herein. The Owners/Lessees of each property each represent to City that they have the authority to convey to City, without further consideration, the Limited Skywalk Easements for the Skywalk System described herein. The owners of each property warrant their respective certifications, agree to take any action necessary to perfect City's interest in the Owner's/Lessee's respective Limited Skywalk Easements at their sole cost and shall defend and hold City harmless from any defects therein and from any claim or cause of action alleged or declared by a lessee, tenant, or other holder of a property right in the property by reason of the execution

of this Agreement. In particular, the parties hereto, as to their respective properties, agree to pay, or to reimburse City for the amount City must pay, for condemnation or settlement in lieu of condemnation, and the reasonable expenses incident thereto, of any property interest City must acquire to perfect its interest to said Limited Skywalk Easements; provided, however, that such parties shall not be liable for any settlement in lieu of condemnation unless they consent thereto.

6. This Agreement does not purport to assign ultimate responsibility between signatory Owners/Lessees to this Agreement as between themselves for obligations which are by this Agreement made joint and several as to such Owners/Lessees and such Owners/Lessees may separately contract as between themselves as to such ultimate responsibility; provided, however, that any such contract shall not operate to defeat the rights of City as set forth in this Agreement, and acceptance by City of such performance or series of performances by such Owners/Lessees, jointly or severally shall not constitute a waiver or an estoppel of City's right to continuity of joint and several responsibility. There shall be no joint and several liability among the parties to this or this and another skywalk agreement for any costs, expenses, obligations or liabilities purported to be assigned by this Agreement, except for: (1) those costs, expenses, obligations and liabilities which are the responsibility of the Owners/Lessees within a single property; (2) the cost, expense, obligation and liability to provide a wall opening in a common wall which is the responsibility of Owners/Lessees of adjacent property who are parties to this or another skywalk agreement; and (3) the obligation of Owners/Lessees of all property within such block to provide at least one handicapped accessible Vertical Access Facility in each square block.

7. Obligations of the City as provided by this Agreement to Owners/Lessees as defined by this Agreement shall be to such Owners/ Lessees as their interests may appear and are not intended to define rights of ownership, possession or other incidents of relationship between such parties.

8. Each Owner/Lessee and City shall designate a person to receive notices on its behalf under this Skywalk Agreement. Each such person designated will be a resident of the City of Des Moines, or its contiguous suburbs. If at any time it is necessary or permissible to give any notice, service or other communication under the terms of this Agreement to any of the parties hereto, such notice, service or other communication shall be deemed to have been given or served with respect to such party when presented in writing personally or deposited in the United States mail, registered or certified, postage prepaid, addressed as follows:

THE CITY OF DES MOINES, IOWA

Attn: City Traffic Engineer  
City Hall  
1200 Locust Street  
Des Moines, Iowa 50309-1891

FEDERAL HOME LOAN BANK OF DES MOINES

Federal Home Loan Bank of Des Moines  
909 Locust Street  
Des Moines, Iowa 50309

Each party hereto shall promptly give notice to all other parties of any change in address or the person to whom notice or service should be addressed.

#### ARTICLE XIV - SPECIAL PROVISIONS

In addition to the above provisions, this Skywalk Agreement is subject to the following special condition:

FHLB acknowledges the changes to the Skywalk Commission, the Skywalk Committee, and the Des Moines Skywalk Association in Des Moines Municipal Code chapter 102, Article IV subsequent to the adoption of the Skywalk Agreements with other owners of buildings on the Des Moines Skywalk System and agrees to comply with the modifications in the Municipal Code.

#### ARTICLE XV - EFFECT OF OTHER AGREEMENTS

In recognition of City's intent to extend the Skywalk System throughout the Skywalk District, City agrees that if it negotiates terms with other parties to other skywalk agreements more favorable than those contained in this Agreement it will grant such terms to the parties hereto, provided, however, that: (a) this requirement shall not apply to any agreement between City and any party to this or another skywalk agreement which involves the purchase, lease, sale or other acquisition of property rights within an urban renewal area; and (b) this requirement shall not apply to any differences in termination dates provided in the different skywalk agreements and the Limited Skywalk Easements granted thereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Skywalk Agreement to be duly executed, attested and sealed in their respective names, in two counterparts, each of which shall constitute one and this same instrument.

#### CITY OF DES MOINES, IOWA

ATTEST:

By: \_\_\_\_\_  
Laura Baumgartner, City Clerk

By: \_\_\_\_\_  
Connie Boesen, Mayor

APPROVED AS TO FORM:

  
Thomas G. Fisher Jr.

Chief Deputy City Attorney

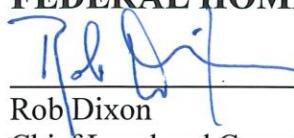
STATE OF IOWA    )  
                      ) ss:  
COUNTY OF POLK )

On this \_\_\_\_ day of \_\_\_\_\_, 2026, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared CONNIE BOESEN and LAURA BAUMGARTNER, to me personally known, and who, being by me duly sworn did state that they are the Mayor and City Clerk, respectively, of City of Des Moines, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of the City of Des Moines, Iowa, by authority of its City Council, as contained in the Resolution adopted by the City Council under Roll Call No. 26-\_\_\_\_\_ of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2026, and that CONNIE BOESEN and LAURA BAUMGARTNER acknowledged the execution of the instrument to be the voluntary act and deed of City of Des Moines, Iowa, by it and by them voluntarily executed.

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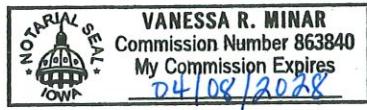
Notary Public in the State of Iowa  
My commission expires: \_\_\_\_\_

FEDERAL HOME LOAN BANK OF IOWA,

  
Rob Dixon  
Chief Legal and Compliance Officer

STATE OF IOWA )  
                  ) ss:  
COUNTY OF POLK )

On this 30<sup>th</sup> day of January, 2026, before me, a Notary Public in and for the State of Iowa, personally appeared Rob Dixon and                   , to me personally known, who being by me duly sworn, did say that they are the Chief Legal & Compliance Officer, respectively, of FEDERAL HOME LOAN BANK OF IOWA; that the instrument was signed on behalf of the organization by authority of its President and that Rob Dixon and                    acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



  
Vanessa R. Minar  
Notary Public in the State of Iowa  
My commission expires: 04/08/2028

## Exhibit "B"

Affected Property and Owners/Lessees/Encumbrances

### Affected Property

The parcel shown in survey parcel 2025-124 and legally described as:

A PART OF LOTS 1, 2, 3, 4, 5 AND 6, C.H. RAWSON & CO'S SUBDIVISION OF A BLOCK INCLUDED IN CAMPBELL & MC MULLEN'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 4 WHICH IS 22.00 FEET SOUTHWEST OF THE SOUTHEAST CORNER OF SAID LOT; THENCE SOUTH 74°(DEGREES) 13'(MINUTES) 27"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOTS 4 AND 5, A DISTANCE OF 249.71 FEET TO A POINT BEING 10.00 FEET NORTHEASTERLY OF THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTH 15°22'45" WEST ALONG A LINE BEING 10.00 FEET EASTERLY OF AND PARALLEL TO THE WEST LINE OF SAID LOTS 5 AND 6, A DISTANCE OF 267.20 FEET TO A POINT BEING 13.00 FEET SOUTH OF AND PERPENDICULAR TO THE NORTH LINE OF SAID LOT 6; THENCE NORTH 74°11'47" EAST ALONG A LINE BEING 13.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOTS 6 AND 1, A DISTANCE OF 250.44 FEET TO A POINT BEING 22.00 FEET WESTERLY OF AND PERPENDICULAR TO THE EAST LINE OF SAID LOT 1; THENCE SOUTH 15°13'17" EAST ALONG A LINE BEING 22.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 1, 2, 3 AND 4, A DISTANCE OF 267.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.53 ACRES (66833 SQ. FT.)

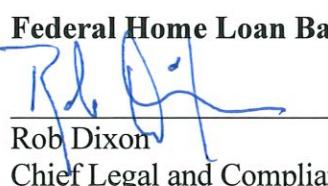
Locally known as 801 Locust Avenue, Des Moines, Polk County, Iowa.

### Owners, Lessees and Encumbrances

Federal Home Loan Bank of Des Moines hereby warrants that it is the sole owner of the Property described above, and such property is free and clear of all liens and encumbrances material to the Skywalk Agreement and the Grant of Limited Skywalk Easements concerning such parcels.

Date: January 30, 2026

**Federal Home Loan Bank of Des Moines**

  
Rob Dixon  
Chief Legal and Compliance Officer

Prepared by: Thomas G. Fisher Jr., Chief Deputy City Attorney, 1200 Locust Street, Des Moines, IA 50309  
Phone: 515/283-4547

Return Address: Dwayne Myers, Real Estate Division, City of Des Moines, PO Box 224, Des Moines, IA 50306-0224

Taxpayer: No change

Title of Document: Limited Skywalk Easements (Exhibit "D" to Skywalk Agreement)

Grantor's Name: Federal Home Loan Bank

City's Name: City of Des Moines, Iowa

Legal Description: See Page 1, below (hereinafter the "Property").

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## **LIMITED SKYWALK EASEMENTS**

(Exhibit D to Skywalk Agreement)

THESE Limited Skywalk Easements made this \_\_\_\_ day of \_\_\_\_, 2026, by and between FEDERAL HOME LOAN BANK OF DES MOINES (hereinafter referred to as "Grantor"), and the CITY OF DES MOINES, IOWA, a municipal corporation organized and existing under the laws and Constitution of the State of Iowa, (hereinafter referred to as "Grantee");

WITNESSETH:

WHEREAS, Grantor is the owner or lessee of certain improved real estate located in Polk County, Iowa, (hereinafter referred to as the "Property") and more particularly described as follows:

The parcel shown in survey parcel 2025-124 and legally described as:

A PART OF LOTS 1, 2, 3, 4, 5 AND 6, C.H. RAWSON & CO'S SUBDIVISION OF A BLOCK INCLUDED IN CAMPBELL & MC MULLEN'S ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 4 WHICH IS 22.00 FEET SOUTHWEST OF THE SOUTHEAST CORNER OF SAID LOT; THENCE SOUTH 74°(DEGREES) 13'(MINUTES) 27"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOTS 4 AND 5, A DISTANCE OF 249.71 FEET TO A POINT BEING 10.00 FEET NORTHEASTERLY OF THE SOUTHWEST CORNER OF SAID LOT 5; THENCE NORTH 15°22'45" WEST ALONG A LINE BEING 10.00 FEET EASTERLY OF AND PARALLEL TO THE WEST LINE OF SAID LOTS 5 AND 6, A DISTANCE OF 267.20 FEET TO A POINT BEING 13.00 FEET SOUTH OF AND PERPENDICULAR TO THE NORTH LINE OF SAID LOT 6; THENCE NORTH 74°11'47" EAST ALONG A LINE BEING 13.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOTS 6 AND 1, A DISTANCE OF 250.44 FEET TO A POINT BEING 22.00 FEET WESTERLY OF AND PERPENDICULAR TO THE EAST LINE OF SAID LOT 1; THENCE SOUTH 15°13'17" EAST ALONG A LINE BEING 22.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 1, 2, 3 AND 4, A DISTANCE OF 267.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.53 ACRES (66833 SQ. FT.)

Locally known as 801 Locust Avenue, Des Moines, Polk County, Iowa.

WHEREAS, Grantor agreed in the Skywalk Agreement to which this instrument is an exhibit, by and between Grantor and Grantee (hereinafter referred to as the "Skywalk Agreement," the defined terms of which are incorporated herein by this reference) to grant to the Grantee limited public easements across the Property for use as a skywalk-level public sidewalk system, consisting of Skywalk Corridors and Skywalk Bridges, in order to allow a free flow of pedestrian traffic through such Skywalk Corridors and Skywalk Bridges during Skywalk System hours.

(a) for construction, reconstruction or removal of a Skywalk Bridge:

(i) a rectangle whose length is five feet added to each side of the width of the Skywalk Corridor easement and whose width is ten feet from the interior of the perimeter building wall into the Building and which is located at the Skywalk Bridge opening, and

(ii) an area four feet on a side greater than the finished support work on any floor where support work is necessary, at or adjacent to such support work, and

(b) for repair and maintenance, a rectangle fourteen feet long by eight feet wide located immediately adjacent to the Skywalk Bridge opening or support structure and, to the extent reasonably necessary, outside the area of any choate Skywalk Corridor easement (provided, however, that the Grantee will restore at its expense the area of such construction easement on the Property to the condition existing prior to such repair or maintenance), and

(c) to work in other areas on the Property, to the extent reasonably necessary to construct, reconstruct, repair, maintain and remove any Skywalk Bridge connected to such Property; provided, however, that such rights and entitlements shall be limited solely to the necessary construction, reconstruction, repair, maintenance or removal activities, and further providing that such employees of and persons authorized by Grantee, and any work area and area used in storing equipment and supplies on Grantor's Property, will interfere with the normal business activities on the Property as little as possible. Grantee agrees to defend and hold Grantor harmless from the negligent acts of such employees of and persons authorized by Grantee.

(6) Grantor warrants that the easements granted herein are superior to any other interest in such easement areas of the Property and agrees to defend and hold Grantee harmless from any action challenging the existence or superiority of such limited easements.

(7) The public's right to the use of the easements granted herein shall also be subject to such reasonable police measures as are necessary in implementing Skywalk System hours or in prohibiting conduct within the Skywalk System which is in violation of the Skywalk Ordinance or any other law.

(8) The Limited Skywalk Easements granted herein shall expire, become null and void, and, without any consideration, revert to and become reinvested in Grantor as fully and completely as if they had not been granted, upon the prior occurrence of the following:

(a) Any time after forty (40) years from the date of this grant of Limited Skywalk Easements, Grantor acting jointly with all other grantors of Limited Skywalk Easements on the Property, if any, may terminate all Skywalk Corridor easements and Skywalk Bridge extension easements granted herein upon two (2) years prior written notice to Grantee, which notice may be given at any time after thirty-eight (38) years from the date of this grant of Limited Skywalk Easements.

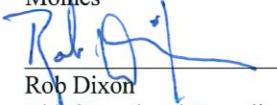
(b) Any Skywalk Corridor easement or portion thereof granted herein shall terminate upon the relocation of such easement or portion thereof by Grantor after notification to and approval by the City Council of Grantee, which approval shall not be unreasonably withheld, and after completion of construction or other manner of providing the relocated Skywalk Corridor by Grantor.

(c) If Grantee abandons any Skywalk Bridge connecting to the Property or any such Skywalk Bridge shall be taken by the power of eminent domain, then so much of the Skywalk Corridor easement and any Skywalk Bridge extension easement as is choate solely by reason of the existence of such Skywalk Bridge shall terminate.

(d) If any portion of Grantor's Property is taken by the power of eminent domain, then that part of the Skywalk Corridor easements, and any Skywalk Bridge extension easement,

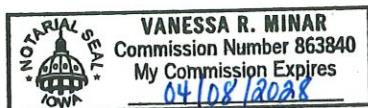
(b) In the event one or more of the terms or provisions contained in the Skywalk Ordinance shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any provision of this grant of Limited Skywalk Easements not also held to be invalid, illegal or unenforceable, and this grant of Limited Skywalk Easements shall be construed as if such invalid, illegal or unenforceable provision had never been contained therein.

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal this 30<sup>th</sup> day of January, 2026.

Federal Home Loan Bank of Des Moines  
  
 Rob Dixon  
 Chief Legal and Compliance Officer

STATE OF IOWA )  
 ) ss:  
 COUNTY OF POLK )

On this 30<sup>th</sup> day of January, 2026, before me, a Notary Public in and for the State of Iowa, personally appeared Rob Dixon, to me personally known, who being by me duly sworn, did say that he is the Chief Legal and Compliance Officer of Federal Home Loan Bank of Des Moines, that no seal has been procured by the corporation; that the instrument was signed on behalf of the corporation by authority of its Board of Directors; and that he acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



  
 Notary Public in the State of Iowa

**EXHIBIT "F"**  
**DESIGNATION OF VERTICAL ACCESS FACILITIES**

As of the execution of this Skywalk Agreement, the Vertical Access Facility for the block bounded by Grand Avenue, Locust Street, 8th and 9th Streets is located in the 9<sup>th</sup> and Locust Parking Garage at 801 Locust Street.

Date: January 30, 2026

**Federal Home Loan Bank of Des Moines**



Rob Dixon

Chief Legal and Compliance Officer