



## Legislation Text

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**File #:** 18-0975, **Version:** 1

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### Resolution to Terminate Covenants and Restrictions and an Easement in a Portion of the Michigan Theater Property **(8 Votes Required)**

Approval of this resolution releases certain covenants and restrictions, including a right of reverter, and an easement for public utilities in a small portion (approximately 127 square feet) of the Michigan Theater property, which the City reserved when it quitclaimed the property to the Michigan Theater Foundation in 2007.

The property was conveyed to the Michigan Theater Foundation (a) subject to the City's reservation of easement rights for public utilities, including emergency access to operate, repair, replace and maintain any public utilities in, on and over the property and (b) subject to certain covenants, restrictions and interests in favor of the City, including use, height, and maintenance covenants and requirements for the property and a right of reverter.

In connection with a transaction with a neighboring property owner, the Michigan Theater Foundation has agreed to sell and convey a small portion of the property free and clear of these restrictions. The portion of property is a small triangular piece on the eastern edge of the parcel that contains no building or public infrastructure. The Michigan Theater Foundation has indicated that this transaction will result in revenue for the Foundation for an otherwise unused piece of the property and they have therefore requested this termination.

The termination is contingent upon City approval of a pending administrative land division, which is currently under review by City staff. The termination retains all of the City's rights in the remainder of the Michigan Theater property, including all of the buildings and existing infrastructure. The termination also contains a provision that if the land is not conveyed within a year from the date the termination is executed, the covenants and restrictions and easement will be restored as to the small portion of land in question.

Staff have evaluated the termination and have no objection.

Prepared by: Michele Yanga, Legal Assistant

Reviewed by: Christopher Frost, Senior Assistant City Attorney

Approved by: Howard S. Lazarus, City Administrator

Whereas, In 2007, the City conveyed the property containing the historic Michigan Theater building to the Michigan Theater Foundation by a Quit Claim Deed recorded at Liber 4646, Page 419 of Deeds, Washtenaw County Records ("Property"), in which conveyance the City encumbered the Property with certain Covenants and Restrictions in Exhibit B and easement rights for public utilities, including emergency access to operate, repair, replace and maintain the public utilities ("Restrictions"); and

Whereas, The Michigan Theater Foundation has requested termination of the Restrictions as to a small portion of the Property, so that it may sell that portion to a neighboring property owner;

**RESOLVED**, That the City of Ann Arbor hereby authorizes and directs the Mayor and City Clerk to

execute an appropriate instrument, after approval by the City Attorney, terminating the Restrictions with respect to the following described portion of the Property ("Parcel"):

Part of Lot 15, Assessor's Plat No. 27, according to the recorded Plat thereof, as recorded in Liber 9 of Plats, Page 18, Washtenaw County Records; commencing at the southeast corner of Lot 7; thence South 86 degrees 06 minutes 33 seconds East 74.89 feet to the point of beginning; thence South 00 degrees 03 minutes 20 seconds West 58.37 feet; thence North 85 degrees 39 minutes 34 seconds West 4.36 feet; thence North 04 degrees 20 minutes 26 seconds East 58.20 feet to the point of beginning;

RESOLVED, That the instrument shall provide that the Restrictions shall continue to apply to remainder of the Property and that if the Parcel is not conveyed within one year from the date of execution of instrument, the Restrictions shall be restored as to the Parcel;

RESOLVED, That execution of the instrument shall be contingent upon the City's administrative approval of the pending request for a land division to divide the Parcel from the Property; and

RESOLVED, That the instrument shall be recorded with the Washtenaw County Register of Deeds as soon as practicable following execution.

Sponsored by: Mayor Taylor