

**CONSERVATION EASEMENT BETWEEN THE CITY OF BLOOMINGTON,
ILLINOIS AND THE ILLINOIS HISTORIC PRESERVATION AGENCY FOR A SAVE
AMERICA'S TREASURES GRANT TO A HISTORIC SUBJECT PROPERTY**

INTRODUCTION. This conservation easement agreement is made the 14 day of DECEMBER, 2009, between City of Bloomington, Illinois, as GRANTOR of a conservation easement (hereafter referred to as the "Grantor"), and the Illinois Historic Preservation Agency, as GRANTEE of the conservation easement (hereafter referred to as the "Grantee"). This conservation easement agreement is entered under the Illinois Real Property Conservation Rights Act (765 ILCS 120/) for the purpose of preserving the Bloomington Center for the Performing Arts, a building that is important culturally, historically, and/or architecturally.

1. **The Subject Property.** This agreement creates a conservation easement in real estate legally described in Exhibit A. The Subject Property is the site of the Bloomington Center for the Performing Arts, located at 600 N. East Street, Bloomington, Mclean County, Illinois (hereafter referred to as the "Subject Property").

2. **Grant of conservation easement.** In consideration of the sum of \$173,000.00 received in grant-in-aid financial assistance from the National Park Service of the United States Department of the Interior, the Grantor hereby grants to the Grantee a conservation easement in the Subject Property for the purpose of assuring preservation of the Bloomington Center for the Performing Arts.

3. **Easement required for Federal grant.** This conservation easement is granted as a condition of the eligibility of the Grantor for the financial assistance from the National Park Service of the United States Department of the Interior appropriated from the Historic Preservation Fund for the Save America's Treasures Grant Program.

4. **Conditions of easement:**

- a. *Duration.* This conservation easement is granted for a period of fifty (50) years commencing on the date when it is filed with the McLean County Recorder, in the State of Illinois, in the United States of America.
- b. *Documentation of condition of the Bloomington Center for the Performing Arts at time of grant of this easement.* In order to make more certain the full extent of Grantor's obligations and the restrictions on the Subject Property, and in order to document the nature and condition of the Subject Property, including significant interior elements in spatial context, a list of character-defining materials, features, and spaces is incorporated as Exhibit "B" at the end of this agreement. The Grantor has provided to the Grantee architectural drawings of the Subject Property. To complement Exhibit "B", Grantee and/or the Grantor personnel have compiled a photographic record, including photographer's affidavit, black and white photographs and negatives, or electronic image files saved as high resolution images, photograph logs, and a keyed location map. The Grantor agrees that the nature and condition of the Subject Property on the date of execution of this easement is accurately documented by the architectural

location map. The Grantor agrees that the nature and condition of the Subject Property on the date of execution of this easement is accurately documented by the architectural drawings and photographic record, which shall be maintained for the life of this easement in the Grantee's conservation easement file for the Subject Property.

- c. *Duty to maintain the Subject Property.* The Grantor agrees to assume the cost of continued maintenance and repair of the Subject Property so as to preserve the architectural, historical, and/or archeological integrity of the Subject Property and its materials to protect those qualities that made the Subject Property eligible for listing in the National Register of Historic Places (or a Subject Property contributing to the significance of a National Register listed Historic District) throughout the effective date of this easement.
- d. *Restrictions on activities that would affect historically significant components of the Subject Property.* The Grantor agrees that no demolition, construction, alteration, remodeling, or any other activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant exterior features or interior spaces identified as significant in Exhibit "A." Exterior construction materials, architectural details, form, fenestration, scale, and mass should not be adversely affected nor the structural soundness or setting altered without prior written permission of the Grantee affirming that such reconstruction, repair, refinishing, rehabilitation, preservation, or restoration will meet The Secretary of the Interior's *Standards for the Treatment of Historic Properties* (hereinafter referred to as the "Standards").
- e. *Restrictions on activities that would affect archeological resources.* The Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant archeological resources identified in Exhibit "A" without prior written permission of the Grantee affirming that such work will meet The Secretary of the Interior's applicable "*Standards for Archeology and Historic Preservation*".
- f. *Maintenance of recovered materials.* The Grantor agrees to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the applicable *Standards for Archeology and Historic Preservation* or will comply with the requirements of the Native American Graves Protection and Repatriation Act, and with 36 CFR 79 and 43 CFR 10.
- g. *Public access.* The Grantor agrees to provide public access to view the grant-assisted work or features no less than twelve (12) days a year on an equitably spaced basis. The dates and times when the Subject Property will be open to the public must be annually published and provided to the Grantee. At the option of the Grantor, the relevant portions of the Subject Property may also be open at other times in addition to the scheduled twelve (12) days a year. Nothing in this agreement will prohibit a reasonably nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.

- h. Right to inspect.* The Grantor agrees that the Grantee, its employees, agents and designees shall have the right to inspect the Subject Property at all reasonable times, with twenty-four (24) hours written notice, in order to ascertain whether the conditions of this conservation easement agreement are being observed. However, in the case of any natural or man-made disaster or imminent endangerment to the Subject Property the easement holder shall be granted access to the Subject Property with no prior notice.
- i. Anti-discrimination.* The Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the Grantee.
- j. Easement shall run with the land; conditions on conveyance.* This conservation easement shall run with the land and be binding on the Grantor, its successors, and assigns. The Grantor agrees to insert an appropriate reference to this easement agreement in any deed or other legal instrument by which it divests itself in part or in whole of either the fee simple title or other lesser estate in the Subject Property, or any part thereof.
- k. Casualty Damage or Destruction.* In the event that the Subject Property or any part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Grantee in writing within fourteen (14) calendar days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Subject Property and to protect public safety, shall be undertaken by the Grantor without the Grantee's prior written approval indicating that the proposed work will meet the Standards. The Grantee shall give its written approval, if any, of any proposed work within sixty (60) days of receiving the request from the Grantor. If after reviewing the condition of the Subject Property, the Grantee determines that the features, materials, appearance, workmanship, and environment (or setting) which made the Subject Property eligible for listing in the National Register of Historic Places have been lost or so damaged that its continued National Register listing is in question, the Grantee will notify the Keeper of the National Register in writing of the loss. The Keeper of the National Register will evaluate the findings and notify the Grantee in writing of any decision to remove the Subject Property from the National Register. If the Subject Property is removed, the Grantee will then notify the Grantor that the agreement is null and void. If the damage or destruction that warrants the properties removal from the National Register is deliberately caused by the gross negligence or other actions of the Grantor or successor owner, then the Grantee will initiate requisite legal action to recover, at a minimum, the Federal grant funds applied to the Subject Property which will then be returned to the U.S. Government.

- l. Enforcement.* The Grantee shall have the right to prevent and correct violations of the terms of this conservation easement. If the Grantee, upon inspection of the Subject Property, finds what appears to be a violation, it may exercise its discretion to seek injunctive relief in a court having jurisdiction. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and/or architectural importance of the Subject Property, the Grantee shall give the Grantor written notice of the violation and allow thirty (30) calendar days to correct the violation before taking any formal action, including, but not limited to, legal action. If a court, having jurisdiction, determines that a violation exists or has occurred, the Grantee may seek to obtain an injunction to stop the violation, temporarily or permanently. A court may also issue a mandatory injunction requiring the Grantor to restore the Subject Property to a condition that would be consistent with preservation purposes of the grant from the National Park Service. In any case where a court finds that a violation has occurred, the court may require the Subject Property to reimburse the Grantee and the Illinois Attorney General for all the State's expenses incurred in stopping, preventing, and/or correcting the violation, including, but not limited, to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.
- m. Effective date; severability.* This conservation easement shall become effective when filed by the Grantor in the Office of the Recorder of McLean County, Illinois, with a copy of the recorded instrument provided to the Grantee for its conservation easement file. If any part of this conservation easement agreement is held to be illegal by a court, the validity of the remaining parts shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the conservation agreement does not contain the particular part held to be invalid.
- n. Amendments.* The parties may by mutual written agreement jointly amend this conservation easement, provided the amendment shall be consistent with preservation purpose of this conservation easement and shall not reduce the regulatory controls listed in the conditions of this conservation easement. Any such amendment shall not be effective unless it is executed in the same manner as this easement, refers expressly to this easement, and is filed with the McLean County Recorder.

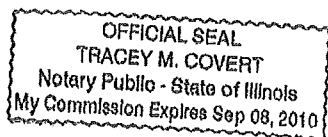
This instrument reflects the entire agreement of Grantor and Grantee regarding the subject easement. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution of this agreement, unless set out in this instrument.

In witness whereof, Grantor and Grantee have set their hands under seal on the days and year set forth below.

GRANTOR: Stephen F. Stockton

By: Stephen F. Stockton, Mayor

STATE OF ILLINOIS, McLEAN COUNTY, ss: On this 15th day of December, 2009, before me the undersigned, a Notary Public for said State, personally appeared Stephen F. Stockton, to me personally known, who stated that he is Mayor of the City of Bloomington, Illinois, that no seal has been procured by said corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its City Council, and that as such officer, he acknowledged that he executed the foregoing instrument as his voluntary act and the voluntary act of the corporation.



Tracey M. Covert
NOTARY PUBLIC

GRANTEE: Illinois Historic Preservation Agency

By: Anne E. Haaker, DSHPO

Name and Title

STATE OF Illinois, Sangamon COUNTY, ss: On the 22 day of January, 2010, before me, a Notary Public for said State, personally appeared Anne Haaker (Name of Person), who stated that he/she is the duly appointed and actively serving DSHPO (Title and Organization), and that he/she executed the foregoing conservation easement agreement as his/her voluntary act and as the voluntary act of the State Department of Cultural Affairs.

Marjorie C. Lewis
NOTARY PUBLIC

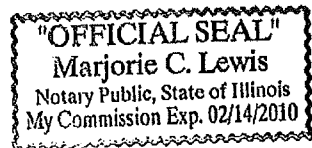


EXHIBIT A TO THE CONSERVATION AGREEMENT

Legal description of the Subject Property

Lot 1, 4, 5, 8 and 9 in Block 13 in Durley's Addition to the City of Bloomington, EXCEPT that portion conveyed to the City of Bloomington by instrument recorded February 14, 1927 in Book 381, Page 227, described as follows: Commencing at the southeast corner of Lot 9 in Block 13 in Durley Addition, thence west along the south line of said Lot 9 a distance of 23 feet, thence northeasterly on a regular curve having a radius of 35 feet, said curve being convex to the roadway of East Street in said City, to a point on the east line of said Lot 9 which is 23 feet north of the southeast corner of said Lot 9, thence south along the east line of said Lot 9 to the point of beginning.

EXHIBIT B TO CONSERVATION EASEMENT AGREEMENT

Baseline Documentation

Bloomington Center for the Performing Arts, Bloomington, Illinois

To remain eligible for listing on the National Register of Historic Places, a Subject Property must be able to convey its significance. The following character-defining materials, spaces, and features have been identified as those that help convey the significance of the Bloomington Center for Performing Arts. Also current photo documentation and the narrative of the National Register nomination must be attached to the baseline documentation.

Significant Character Defining Interior Spaces and Features

- **View of lobby, facing northeast** – Outside wrought iron hand rails are original to the building (center stair rail was added during 2006 renovation in the style of existing railings to bring the staircase up to code), as are all columns, light fixtures, and decorative plaster-work. Wooden doors into the theater are new from the renovation.
- **Ballroom, facing northeast** – Terrazzo flooring and columns are original to the building. Ceiling tiles replacement windows, curtains, track lighting as well as lighting elements on the top of the columns are new, as recent as the 2006 renovation.
- **Audience Chamber from Stage, facing east** – Proscenium arch and decorative work are original. Rondels were replaced during the 2006 renovation and accompanying lighting elements were replaced at the same time. The front of the stage was replaced in the last 25 years. Seats, curtains, speakers, exit lighting, and all wooden doors were replaced during the renovation, as was all of the interior lighting seen on the right side of the photo. Decorative plasterwork above the exit door on the main floor was also refurbished in the 2006 renovation. A fire system (an alarm box is visible below the first two columns on the wall, was also added in 2006). The rest of the interior is original to the building, including the box seats and the grillwork above, the balcony, the two curtained wall cutouts, and the floor below the seats.
- **Audience chamber** – Added in the renovation: carpeting, seats, curtains, wooden doors, under-balcony light fixtures, stage lighting, exit lighting and the back wall of the audience chamber, which was reshaped to create a light lock/cry room space for patrons. All other construction is original to the building.

Significant Character Defining Exterior Spaces and Features

- **Exterior and grounds, facing north** – Entry doors are new to the 2006 renovation. Arched stained glass windows were added to the building in 1962. All other exterior

windows are replacement windows from the past 20 years. Staircase railings are also new. Electronic sign was added in 2007. All other elements of the façade are original.

EXHIBIT C TO CONSERVATION EASEMENT AGREEMENT

**Written Documentation of the Signatories Authority to Sign for and Legally Bind their
Organization**

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF BLOOMINGTON, ILLINOIS**

RESOLVED, that the City of Bloomington, Illinois, an Illinois Municipal Corporation (the "Grantor") shall execute a conservation easement with the Illinois Historic Preservation Agency, the Illinois State Historic Preservation Office (the "Grantee"). This conservation easement will be entered under the Illinois Real Property Conservation Rights Act for the purpose of preserving the Bloomington Center for the Performing Arts, a building that is important culturally, historically, and architecturally.

RESOLVED, that Stephen F. Stockton, as Mayor of the City of Bloomington, Illinois, is authorized, directed, and empowered to take such action and execute and deliver such document in such form as he deems to be in the best interests of the City of Bloomington, Illinois including without limitation the execution and delivery of a conservation easement between the City of Bloomington, Illinois and the Illinois Historic Preservation Agency.

I, Stephen F. Stockton, Mayor of the City of Bloomington, Illinois, do hereby certify that the foregoing is a full, true and correct copy of the resolution of the City Council of Bloomington, Illinois, duly and regularly passed by the City Council of Bloomington, Illinois in all respects as required by law, on the 14th day of December 2009, at which time a majority of the City Council of said Corporation was present and voted in favor of said resolution.

Date: December 15, 2009

GRANTOR: CITY OF BLOOMINGTON, ILLINOIS
A Municipal Corporation

By: Stephen F. Stockton
Stephen F. Stockton, Mayor