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Adopted as follows:

Yeas — Council Members S. Cockrel, Collins, Jones, Kenyatta, Reeves, Tinsley-Talabi, Watson, Conyers, and President K. Cockrel, Jr. — 9.

Nays — None.

**Department of Public Works  
City Engineering Division**

June 29, 2007

Honorable City Council:

Re: Petition No. 1112 — McKenna Associates Incorporated request that the City of Detroit accept a pedestrian easement over land owned by the Arab American Chaldean Council ("ACC") at 55 West Seven Mile Road, also West Seven Mile Road, Bentwood, John R., and Charleston.

Petition No. 1112 of "McKenna Associates Incorporated," on behalf of the Arab American Chaldean Council, requests the Honorable City Council to accept a pedestrian easement over a parcel of land identified by street address as 55 West Seven Mile Road located on the south side West Seven Mile Road, 66 feet wide, and between Charleston Avenue, 50 feet wide, and John R. Avenue, 66 feet wide. The public easement is required to construct streetscape improvements on West Seven Mile Road between Charleston Avenue and John R. Street using Federal Transportation Enhancement Funds administered by the Michigan Department of Transportation ("M-DOT"). This Enhancement Funding will cover the construction of the first pocket park within the Seven Mile Neighborhood area, recently named a Cool Cities "Neighborhood in Progress".

The "Enhancement Area Easement" will be placed on property owned by the Arab American Chaldean Council ("ACC"), which has agreed to maintain this Enhancement Area Easement in perpetuity pursuant to terms and conditions set forth in its Seven Mile Streetscape Improvement Project Agreement with the Department of Public Works previously authorized and approved by City Council resolution adopted effective August 21, 2006. The ACC has also agreed to accept additional terms and conditions recommended to City Council by Vincent R. Nathan, Director of the Department of Environmental Affairs, by letter dated March 19, 2007, with respect to indemnification of the City, in form acceptable to the Law Department, and other environmental concerns and physical matters pertaining to the improvements.

One of the requirements of the M-DOT Transportation Enhancement Grant is that City Council authorize acceptance of a grant by ACC, as property owner, of public easement rights over the area required for construction of the park.

An appropriate resolution is attached for consideration by your Honorable Body.

Respectfully submitted,

JESSY JACOB

Interim City Engineer

City Engineering Division — DPW

By Council Member Reeves:

Whereas, City Council previously approved application for, in collaboration with Wayne County and the Arab American Chaldean Council ("ACC"), and acceptance of Federal Transportation Enhancement Grant Funds, administered by the Michigan Department of Transportation ("M-DOT"), for construction of the West Seven Mile Road Streetscape Project (the "Project"); and

Whereas, The Project includes construction of a pocket park on a parcel of land identified by street address as 55 West Seven Mile owned by the ACC; and

Whereas, The Department of Public Works ("DPW") previously executed and entered into an Agreement with the ACC under which the ACC agreed, among other things, to be responsible for any Project costs deemed ineligible for Transportation Enhancement Grant funding and for maintenance of Project improvements, after completion, "in perpetuity"; and

Whereas, DPW has now approved the plans for Project improvements, but an unfulfilled condition precedent to Transportation Enhancement Grant funding is the grant by the ACC, as property owner, of public easement rights over and across the parcel proposed for development and use as a pocket park; and

Whereas, In order to meet the grant requirements, it is necessary that an Enhancement Area Easement be authorized by your Honorable Body and determined to be under DPW's control and jurisdiction.

Now Therefore Be It Resolved, That the ACC's offer to grant of public pedestrian easement rights over the parcel located at 55 West Seven Mile Road is hereby accepted and an Enhancement Area Easement is hereby authorized and established as being under DPW's control and jurisdiction for the parcel of land more particular described as:

Land in the City of Detroit, Wayne County, Michigan, being the East 30.00 feet of Lot 215 and the West 16.00 feet of Lot 214 of the "James E. O'Flaherty's Log Cabin Subdivision" of part of the Northeast 1/4 of the Northeast 1/4 of Section 11, T.1S., R.11E., Greenfield Township (now City of Detroit), Wayne County, Michigan as recorded in Liber 27, Page 13, Plats, Wayne County Records;

Provided, That the ACC, as owner of the land on which the Enhancement Area Easement is located, for itself and together with, for and by its successors and assigns, if any, shall be responsible for

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maintenance of the easement area "in perpetuity;" which shall be defined as until such time as City Council, in its sole discretion, by resolution, relinquishes all right, claim and interest in public pedestrian easement rights over and across the subject parcel; and be it further

Provided, That any work to be done in the public right-of-way is subject to plan review by the City Engineering Department, any and all necessary permits are required, and specifically with respect to park improvements constructed on the Enhancement Area Easement: (1) any and all materials used for construction of improvements, e.g., such as swings, slides, play scapes, woodchips, soil, etc., shall meet all applicable environmental standards; (2) the top soil used as the final layer for the site shall be at least 6 inches thick of clean soil, with certification of such supported by laboratory data; and (3) the 6" thick clean soil layer shall be maintained "in perpetuity" for so long as the easement area is available for public access and use for park purposes; and be it further

Provided, That the ACC, as owner of the property and grantor of public easements rights over and across the Enhancement Area Easement, for itself, its successors and assigns, agrees to save harmless and indemnify the City of Detroit (the "City") from any and all liabilities, obligations, penalties, costs, charges, losses damages, or expenses

(including but not limited to, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon incurred by or asserted against the City by reason of any of the following occurring:

(a) Any intentional, negligent or tortious acts by Grantor, Grantor's contractors, agents, representatives and employees resulting in personal injury, bodily injury, sickness, disease or death, or injury to or destruction of tangible or real property, including the loss of use therefrom, without regard for whether said act or claim arises prior to or subsequent to conveyance of the pedestrian easement to the City; or

(b) Any environmental claim or violation of any environmental law, whether for personal injury, property damage or otherwise, without regard for whether said claim or violation arises prior to or subsequent to conveyance of the pedestrian easement to the City; or

(c) Any and all injury to the person or damage to the property of any person on, about, traversing, playing on or in any way using the pedestrian easement granted to the City, without regard for whether said claim or violation arises prior to or subsequent to conveyance of the pedestrian easement to the City; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds

