

Date October 24, 2016

**HOLD HEARING FOR VACATION OF A SEGMENT OF EAST 18TH STREET RIGHT-OF-WAY AT HUBBELL AVENUE AND CONVEYANCE OF A CORRECTED EASEMENT FOR BUS SHELTER ENCROACHMENT IN THE VACATED RIGHT-OF-WAY TO DES MOINES AREA REGIONAL TRANSIT AUTHORITY**

**WHEREAS**, on August 10, 2015, by Roll Call No. 15-1371, the City Council of the City of Des Moines passed Ordinance No. 15,395, vacating a portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, and voted to convey an Easement for Bus Shelter Encroachment on City-owned Property in said vacated right-of-way to Des Moines Area Regional Transit Authority (hereinafter "DART") for \$200.00, for the purpose of constructing, operating and maintaining a DART bus stop shelter; and

**WHEREAS**, said Easement for Bus Shelter Encroachment on City-owned Property (hereinafter "Original Easement") was filed in the Office of the Polk County Recorder on October 16, 2015, in Book 15773, Page 646; and

**WHEREAS**, the legal description used for said vacation ordinance and Original Easement for Bus Shelter Encroachment on City-owned Property contained a scrivener's error, which error now must be corrected by vacating a portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, as legally described below, and granting a Corrected Easement for Bus Shelter Encroachment on City-Owned Property in said vacated right-of-way to DART; and

**WHEREAS**, such portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, as legally described below, has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of Hubbell Avenue, and the City will not be inconvenienced by the vacation and conveyance of said permanent easement.

**WHEREAS**, on October 10, 2016, by Roll Call No. 16-1714, it was duly resolved by the City Council that the proposed vacation and proposed conveyance of a Corrected Easement for Bus Shelter Encroachment on City-Owned Property be set for hearing on October 24, 2016, at 5:00 p.m., in the City Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate a portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue and convey a Corrected Easement for Bus Shelter Encroachment on City-Owned Property therein was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

Date October 24, 2016

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the permanent easement for bus shelter encroachment in such vacated right-of-way as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, legally described as follows, and said vacation is hereby approved:

A PART OF THE EAST 18TH STREET RIGHT OF WAY LYING WEST OF HUBBELL AVENUE ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF LOT 1 OF SAID HUBBELL AVENUE ADDITION AND THE NORTH LINE OF THE SOUTHEASTERLY 12 FEET OF SAID LOT 1; THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE NORTH LINE OF THE SOUTHEASTERLY 12 FEET OF SAID LOT 1, A DISTANCE OF 17.3 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTHEAST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE SOUTHWEST AND PARALLEL TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET; THENCE NORTHWEST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE NORTHEAST ALONG THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

3. That the conveyance of a Corrected Easement for Bus Shelter Encroachment on City-Owned Property in such vacated right-of-way as described below, to Des Moines Area Regional Transit Authority be and is hereby approved, subject to the negotiated terms of said easement:

A PART OF THE VACATED EAST 18TH STREET RIGHT OF WAY LYING WEST OF HUBBELL AVENUE ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF LOT 1 OF SAID HUBBELL AVENUE ADDITION AND THE NORTH LINE OF THE SOUTHEASTERLY 12 FEET OF SAID LOT 1; THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE NORTH LINE OF THE SOUTHEASTERLY 12 FEET OF SAID LOT 1, A DISTANCE OF 17.3 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTHEAST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE SOUTHWEST AND PARALLEL TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET; THENCE NORTHWEST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE NORTHEAST ALONG THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET TO THE POINT OF BEGINNING.

4. The Mayor is authorized and directed to sign the Corrected Easement for Bus Shelter Encroachment on City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

Date October 24, 2016

5. Upon final passage of an ordinance vacating said right-of-way, the City Clerk is authorized and directed to forward the original easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded following closing.
6. In accordance with the terms set forth in the easement, the Real Estate Division Manager is authorized and directed to forward the original of the easement, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the easement and copies of the other documents to the grantee.
8. There are no proceeds associated with this transaction.

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

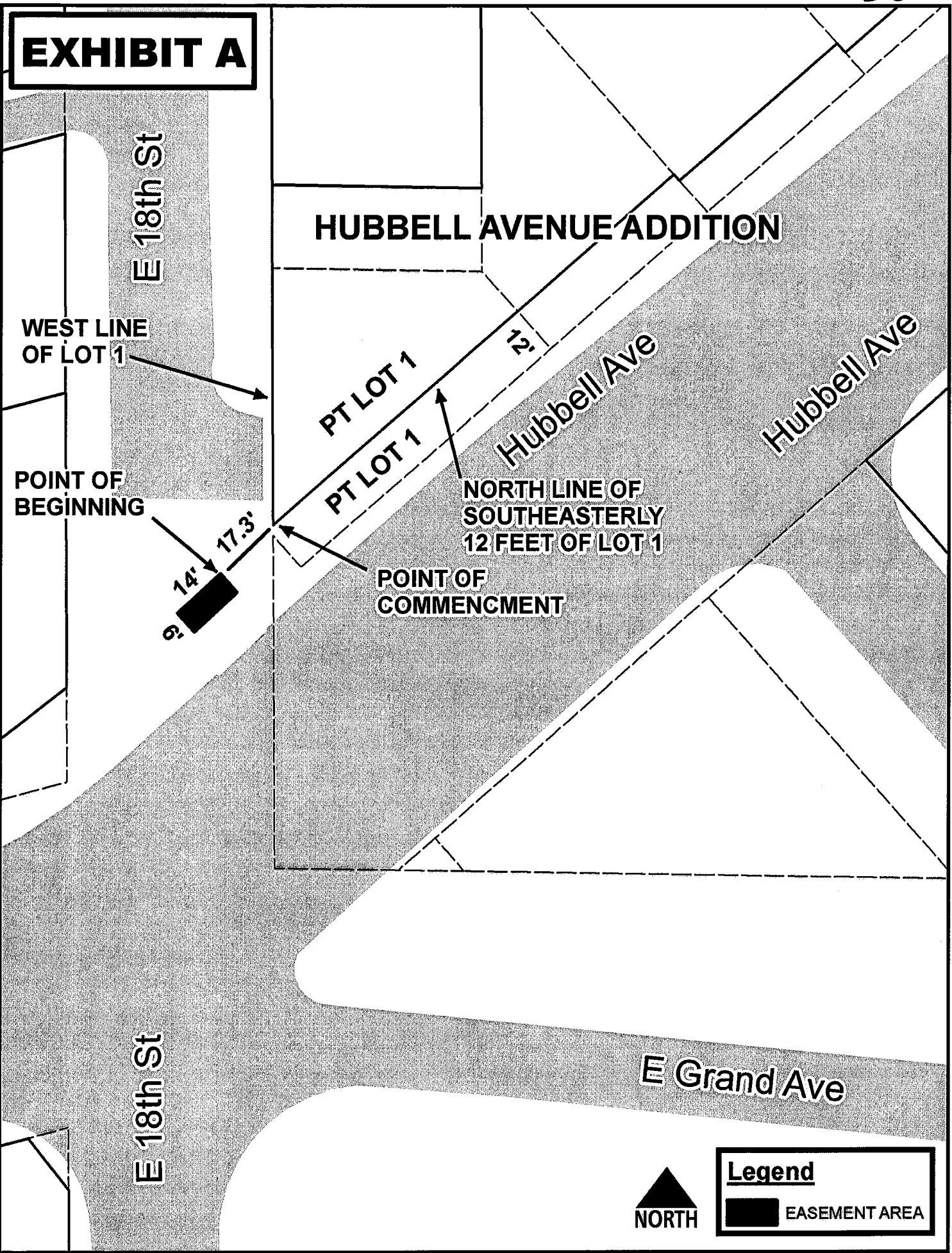
**CERTIFICATE**

I, DIANE RAUH, 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

# EXHIBIT A



**EXHIBIT A**

## HUBBELL AVENUE ADDITION

E 18th St

WEST LINE OF LOT 1

POINT OF BEGINNING

PT LOT 1

PT LOT 1

NORTH LINE OF SOUTHEASTERLY 12 FEET OF LOT 1

POINT OF COMMENCEMENT

Hubbell Ave

Hubbell Ave

E 18th St

E Grand Ave



**Legend**

 EASEMENT AREA