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Date December 17, 2018

**HOLD HEARING FOR VACATION OF PORTIONS OF CITY RIGHT-OF-WAY AND APPROVAL OF A LAND EXCHANGE AGREEMENT BETWEEN HAWKEYE LAND CO. AND THE CITY OF DES MOINES IN CONJUNCTION WITH THE ROWAT LOFTS PROJECT AND THE E. 30<sup>TH</sup> STREET OVER UNION PACIFIC RAILROAD BRIDGE REHABILITATION PROJECT**

**WHEREAS**, the City of Des Moines owns various street and alley of rights-of-way located between SE 7<sup>th</sup> Street and SE 10<sup>th</sup> Street and between E. Court Street and E. Market Street, (“City Parcel”); and

**WHEREAS**, Hawkeye Land Co. is the owner of properties located at Southeast 6<sup>th</sup> Street and vacated East Market Street, and north of Scott Avenue east of Southeast 18<sup>th</sup> Street, and east of Southeast 30<sup>th</sup> Street north of Raccoon Street, legally described below, and further depicted on the attached Exhibit A, (herein “Hawkeye Parcels”);

**WHEREAS**, on December 6, 2018, the City Plan and Zoning Commission recommended approval of a City-initiated request for vacation of the right-of-way within the City Parcel, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated; and

**WHEREAS**, Hawkeye Land Company has provided the City with an affidavit from a licensed engineer certifying that there are no utilities located within the right-of-way to be vacated, thereby satisfying the Plan and Zoning Commission condition requiring a reservation of easements for utilities; and

**WHEREAS**, certain property interests within the Hawkeye Parcels are needed by the City of Des Moines to facilitate the Rowat Lofts multi-family residential housing project on Southeast 6<sup>th</sup> Street, for assemblage with adjoining City-owned property between Martin Luther King, Jr. Parkway and Scott Avenue, and for temporary access to the Southeast 30<sup>th</sup> Street viaduct for the E. 30<sup>th</sup> Street Over Union Pacific Railroad Bridge Rehabilitation Project; and

**WHEREAS**, City staff and Hawkeye Land Co. have negotiated a Land Exchange Agreement by which Hawkeye Land Co. will convey certain property interests within the Hawkeye Parcels, including a Temporary Easement for Construction and Construction-Related Activities to the City for the E. 30<sup>th</sup> Street Over Union Pacific Railroad Bridge Rehabilitation Project, in exchange and as consideration for the City’s conveyance to Hawkeye Land Co. of the City Parcel, with all properties being exchanged “as-is” and closing subject to environmental review if desired by either party; and

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**WHEREAS**, the property interests to be exchanged have been determined by the City's Real Estate Division to be comparable in value, condition, and use; and

**WHEREAS**, there is no known current or anticipated public need for the City Parcel proposed to be vacated and conveyed to Hawkeye Land Co., and the City will not be inconvenienced by the sale of said property, and will benefit from acquisition and acceptance of the property interests within the Hawkeye Parcels.

**WHEREAS**, on December 3, 2018 by Roll Call No. 18-1990, it was duly resolved by the City Council that the proposed conveyance be set down for hearing on December 17, 2018 at 5:00 p.m., in the Council Chamber;

**WHEREAS**, due notice of said proposal to vacate and convey the City Parcel was given to all interested parties as required by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed conveyance of the City Parcel as described below are hereby overruled and the hearing is closed.
2. There is no public need or benefit for various street and alley of rights-of-way located between SE 7<sup>th</sup> Street and SE 10<sup>th</sup> Street and between E. Court Street and E. Market Street proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street and alley rights-of-way, legally described as follows, and said vacation is hereby approved:

PARCEL 2018-174

A part of East Vine Street, Southeast 9<sup>th</sup> Street and alley in Block 20 in the Town of De Moine, as recorded in Book A, Page 188, in the Office of the Recorder, Polk County, Iowa described as follows;

Date December 17, 2018

Beginning at the SW corner of Block 13 of said Town of De Moine; thence N74°56'49"E along the south line of Blocks 13 and 12 of said Town of De Moine, 697.82 feet to the SE corner of Block 12; thence N14°55'06"W along the east line of said Block 12, 5.32 feet to a point 20 feet south of and normal to the centerline of the southernmost track of the north spur of the Iowa Interstate Railroad; thence Easterly along a line 20 feet south of and normal to the centerline of said southernmost track of the north spur on an arc of 85.08 feet, of a 1883.70-foot radius curve to the right, having a chord length of 85.07 feet, bearing S81°38'01"E; thence S80°30'58"E along a line 20 feet south of and normal to the centerline of said southernmost track of the north spur, 123.63 feet to a point on the north line of Block 21 of said Town of De Moine; thence S74°53'53"W along said north line of Block 21, 111.04 feet to the NW corner of said Block 21; thence S14°41'45"E along the west line of said Block 21, 84.72 feet to a point 15 feet, normal to the centerline of the Iowa Interstate Railroad northernmost track of the main line (formerly the track of the Chicago, Rock Island and Pacific Railroad Company); thence S88°42'35"W along a line 15 feet north of and parallel to said centerline, 82.24 feet to a point on the east line of Block 20, said Town of De Moine; thence N14°41'45"W along said east line of said Block 20, 65.09 feet to the NE corner of said Block 20; thence S74°56'49"W along the north line of said Block 20, 139.90 feet to the NW corner of Lot 10 of said Block 20; thence S14°43'15"E along the west line of said Lot 10, 30.88 feet to a point 15 feet north of and normal to the centerline of the northernmost track of main line; thence S88°42'35"W along a line 15 feet north of and parallel to the centerline of said track, 20.56 feet to a point on the east line of Lot 1 of said Block 20; thence N14°43'15"W along the easterly line of said Lot 1, 25.99 feet to the NE corner of said Lot 1; thence S74°56'49"W along the north line of Block 20, 104.28 feet to a point 30 feet north of and normal to the centerline of the Iowa Interstate Railroad main track; thence S88°43'20"W along a line 30 feet north of and parallel to the centerline of said main track, 20.69 feet; thence Westerly along a line 30 feet north of and parallel to the centerline of said main track on an arc of 367.37 feet, of a 3217.87-foot radius curve to the left, having a chord length of 367.17 feet, bearing S85°45'47"W; thence S81°39'48"W along a line 30 feet north of and parallel to the centerline of said main track, 52.77 feet to the Point of Beginning, containing 1.17 acres or 51,080 square feet.

PARCEL 2018-175

A part of the north-south alley and east-west alley located in Block 21, Town of De Moine, as recorded in Book A, Page 188, as recorded in the Office of the Recorder, Polk County, Iowa, described as follows;

Commencing as a point of reference at the SE corner of said Block 21; thence N15°02'36"W along the east line of said Block 21, 142.53 feet to the NE corner of Lot 8 of said Block 21 and the Point of Beginning; thence S74°59'17"W along the north line of Lots

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8, 7 and 6 of said Block 21, 118.78 feet to a point 15 feet, north of and normal to the centerline of the Iowa Interstate Railroad northernmost track (formerly the track of the Chicago, Rock Island and Pacific Railroad Company); thence S88°42'35"W along a line 15 feet north of and parallel to said centerline, 75.88 feet to a point on the south line of Lot 2 of said Block 21; thence N74°59'17"E along the south line of Lot 2 of said Block 21, 32.03 feet to the SE corner of Lot 2 of said Block 21; thence N14°52'11"W along the east line of Lots 1 and 2 of said Block 21, 98.10 feet to a point 20 feet south of and normal to the centerline of the southernmost track of the Iowa Interstate Railroad; thence S80°30'58"E along a line 20.00 feet south of and parallel to said centerline, 21.95 feet to a point on the west line of Lot 10 of said Block 21; thence S14°52'11"E along the west line of Lots 10 and 9 of said Block 21, 89.00 feet to the SW corner of said Lot 9; thence N74°59'17"E along the south line of Lot 9 of said Block 21, 140.45 feet to the east line of said Block 21; thence S15°02'36"E along the east line of said Block 21, 18.00 feet to the Point of Beginning, containing 0.11 acres or 4672 square feet.

3. The proposed sale of such vacated street and alley right-of-way, legally described below, to Hawkeye Land Co., in exchange and as consideration for conveyance to the City of the real property located at Southeast 6<sup>th</sup> Street and vacated East Market Street, and north of Scott Avenue east of Southeast 18<sup>th</sup> Street; and conveyance of a Temporary Easement for Construction and Construction-Related Activities for the E. 30<sup>th</sup> Street Over Union Pacific Railroad Bridge Rehabilitation Project upon property owned by Hawkeye Land Co., all legally described as follows, is hereby approved:

PROPERTY TO BE CONVEYED FROM THE CITY OF DES MOINES TO HAWKEYE LAND COMPANY:

PARCEL 2018-174

A part of vacated East Vine Street, vacated Southeast 9<sup>th</sup> Street and vacated alley in Block 20 in the Town of De Moine, as recorded in Book A, Page 188, in the Office of the Recorder, Polk County, Iowa described as follows;

Beginning at the SW corner of Block 13 of said Town of De Moine; thence N74°56'49"E along the south line of Blocks 13 and 12 of said Town of De Moine, 697.82 feet to the SE corner of Block 12; thence N14°55'06"W along the east line of said Block 12, 5.32 feet to a point 20 feet south of and normal to the centerline of the southernmost track of the north spur of the Iowa Interstate Railroad; thence Easterly along a line 20 feet south of and normal to the centerline of said southernmost track of the north spur on an arc of 85.08 feet, of a 1883.70-foot radius curve to the right, having a chord length of 85.07 feet, bearing S81°38'01"E; thence S80°30'58"E along a line 20 feet south of and normal to the centerline

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of said southernmost track of the north spur, 123.63 feet to a point on the north line of Block 21 of said Town of De Moines; thence  $S74^{\circ}53'53''W$  along said north line of Block 21, 111.04 feet to the NW corner of said Block 21; thence  $S14^{\circ}41'45''E$  along the west line of said Block 21, 84.72 feet to a point 15 feet, normal to the centerline of the Iowa Interstate Railroad northernmost track of the main line (formerly the track of the Chicago, Rock Island and Pacific Railroad Company); thence  $S88^{\circ}42'35''W$  along a line 15 feet north of and parallel to said centerline, 82.24 feet to a point on the east line of Block 20, said Town of De Moines; thence  $N14^{\circ}41'45''W$  along said east line of said Block 20, 65.09 feet to the NE corner of said Block 20; thence  $S74^{\circ}56'49''W$  along the north line of said Block 20, 139.90 feet to the NW corner of Lot 10 of said Block 20; thence  $S14^{\circ}43'15''E$  along the west line of said Lot 10, 30.88 feet to a point 15 feet north of and normal to the centerline of the northernmost track of main line; thence  $S88^{\circ}42'35''W$  along a line 15 feet north of and parallel to the centerline of said track, 20.56 feet to a point on the east line of Lot 1 of said Block 20; thence  $N14^{\circ}43'15''W$  along the easterly line of said Lot 1, 25.99 feet to the NE corner of said Lot 1; thence  $S74^{\circ}56'49''W$  along the north line of Block 20, 104.28 feet to a point 30 feet north of and normal to the centerline of the Iowa Interstate Railroad main track; thence  $S88^{\circ}43'20''W$  along a line 30 feet north of and parallel to the centerline of said main track, 20.69 feet; thence Westerly along a line 30 feet north of and parallel to the centerline of said main track on an arc of 367.37 feet, of a 3217.87-foot radius curve to the left, having a chord length of 367.17 feet, bearing  $S85^{\circ}45'47''W$ ; thence  $S81^{\circ}39'48''W$  along a line 30 feet north of and parallel to the centerline of said main track, 52.77 feet to the Point of Beginning, containing 1.17 acres or 51,080 square feet.

PARCEL 2018-175

A part of the vacated north-south alley and vacated east-west alley located in Block 21, Town of De Moines, as recorded in Book A, Page 188, as recorded in the Office of the Recorder, Polk County, Iowa, described as follows;

Commencing as a point of reference at the SE corner of said Block 21; thence  $N15^{\circ}02'36''W$  along the east line of said Block 21, 142.53 feet to the NE corner of Lot 8 of said Block 21 and the Point of Beginning; thence  $S74^{\circ}59'17''W$  along the north line of Lots 8, 7 and 6 of said Block 21, 118.78 feet to a point 15 feet, north of and normal to the centerline of the Iowa Interstate Railroad northernmost track (formerly the track of the Chicago, Rock Island and Pacific Railroad Company); thence  $S88^{\circ}42'35''W$  along a line 15 feet north of and parallel to said centerline, 75.88 feet to a point on the south line of Lot 2 of said Block 21; thence  $N74^{\circ}59'17''E$  along the south line of Lot 2 of said Block 21, 32.03 feet to the SE corner of Lot 2 of said Block 21; thence  $N14^{\circ}52'11''W$  along the east line of Lots 1 and 2 of said Block 21, 98.10 feet to a point 20 feet south of and normal to the centerline of the southernmost track of the Iowa Interstate Railroad;

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thence S80°30'58"E along a line 20.00 feet south of and parallel to said centerline, 21.95 feet to a point on the west line of Lot 10 of said Block 21; thence S14°52'11"E along the west line of Lots 10 and 9 of said Block 21, 89.00 feet to the SW corner of said Lot 9; thence N74°59'17"E along the south line of Lot 9 of said Block 21, 140.45 feet to the east line of said Block 21; thence S15°02'36"E along the east line of said Block 21, 18.00 feet to the Point of Beginning, containing 0.11 acres or 4672 square feet.

PROPERTY TO BE CONVEYED FROM HAWKEYE LAND CO. TO THE CITY OF DES MOINES:

FEE SIMPLE

-EXCEPT THE EAST 158 FEET-, ALL OF THE NORTH 14 FEET OF VACATED EAST MARKET STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING ALL OF BLOCK 18, TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2240 SQUARE FEET.

AND

A PORTION OF LOT 1, 4, AND 5 OF THE OFFICIAL PLAT OF LOT 46 BROOKS & COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF REFERENCE BEING THE SOUTHEAST CORNER OF LOT 2 OF THE OFFICIAL PLAT OF LOT 45, BROOKS & COS ADDITION TO THE CITY OF DES MOINES; THENCE NORTH 89° (DEGREES) 45' (MINUTES) 10" (SECONDS) WEST, 355.01 FEET ON THE NORTH RIGHT OF WAY LINE OF SCOTT STREET (AVENUE) TO THE SOUTHEAST CORNER OF SAID LOT 5 AND THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°45'10" EAST, 32.29 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE NORTH 00°12'57" EAST, 318.59 FEET; THENCE 128.42 FEET ON A 363.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD LENGTH OF 127.75 FEET AND BEARS NORTH 09°47'56" WEST; THENCE NORTH 90°00'00" EAST, 51.68 FEET TO THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°08'56" EAST, 444.61 FEET ON THE EAST LINE OF SAID LOTS 1, 4, AND 5 TO THE POINT OF BEGINNING, CONTAINING 0.34 ACRES MORE OR LESS;

AND

TEMPORARY EASEMENT FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES

AREA 1

A 40-FOOT-WIDE TEMPORARY EASEMENT BEING PART OF PARCEL "A" LOCATED IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M. IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND ALSO DESCRIBED AS FOLLOWS:

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COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 6; THENCE SOUTH 00°00'12" EAST 1086.00 FEET; THENCE NORTH 89°59'48" EAST 33.00 FEET TO THE NORTHWEST CORNER OF PARCEL "A" AND THE POINT OF BEGINNING AND THE BEGINNING OF A 2225.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY WHOSE 40.14 FOOT CHORD BEARS SOUTH 85°10'43" EAST; THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 40.14 FEET; THENCE SOUTH 00°00'12" EAST 184.55 FEET; THENCE SOUTH 89°59'46" WEST 40.00 FEET TO THE EASTERLY RIGHT OF WAY OF EAST 30TH STREET; THENCE NORTH 00°00'12" WEST 187.93 FEET TO THE POINT OF BEGINNING, CONTAINING 7,452 SQUARE FEET (0.171 ACRES).

AREA 2

A 15-FOOT-WIDE TEMPORARY EASEMENT BEING PART OF PARCEL "A" LOCATED IN THE SOUTHWEST QUARTER IN SECTION 6, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M. IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND ALSO DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 6; THENCE SOUTH 00°00'12" EAST 1273.93 FEET; THENCE NORTH 89°59'46" EAST 123.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°59'46" EAST 15.00 FEET; THENCE SOUTH 00°00'12" EAST 154.19 FEET; THENCE NORTH 80°27'48" WEST 15.21 FEET; THENCE NORTH 00°00'12" WEST 151.67 FEET TO THE POINT OF BEGINNING, CONTAINING 2,294 SQUARE FEET (0.053 ACRES).

4. The Mayor is authorized and directed to sign the Land Exchange Agreement and, prior to closing, the Quit Claim Deed and acceptance of the Hawkeye Parcels and the temporary easement therein for the exchange as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to deliver the aforementioned documents to the Real Estate Division Manager for recording and closing purposes, together with a certified copy of this resolution and proof of publication of the notice of this hearing.
5. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Land Exchange Agreement to confirm compliance prior to closing; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreement, following approval of the City's Legal Department as to form; to proceed to closing in accordance with the terms set forth herein and in the Agreement.
6. There are no proceeds associated with this transaction.

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

★ Roll Call Number

Agenda Item Number

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Date December 17, 2018

APPROVED AS TO FORM:

*Lisa A. Wieland*

Lisa A. Wieland  
Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

Mayor

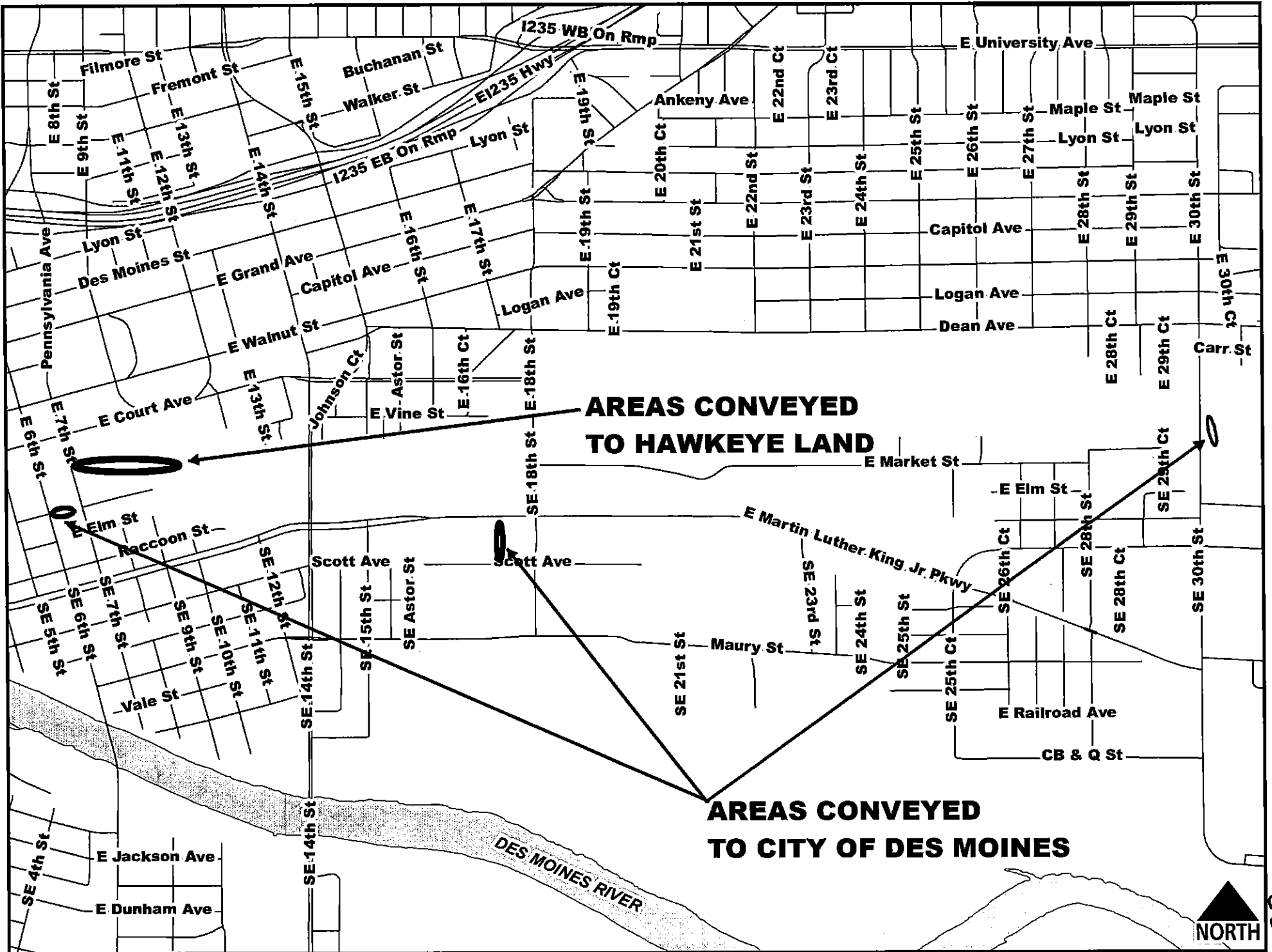
CERTIFICATE

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





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