

Date October 14, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF PROPERTY PURCHASED FOR THE HUBBELL AVENUE IMPROVEMENTS – EAST 33<sup>RD</sup> STREET TO EAST 38<sup>TH</sup> STREET PROJECT TO THE STATE OF IOWA, FOR THE BENEFIT AND USE OF THE IOWA DEPARTMENT OF TRANSPORTATION (IDOT)**

**WHEREAS**, on May 22, 2017, by Roll Call No. 17-0859, the City Council authorized acquisition of the necessary property interests for the Hubbell Avenue Improvements – East 33<sup>rd</sup> Street to East 38<sup>th</sup> Street Project (“Project”) by gift, negotiation, or condemnation; and

**WHEREAS**, on April 9, 2018, by Roll Call No. 18-0551, the City Council approved and authorized the execution of the Iowa Department of Transportation Agreement for the Hubbell Avenue Reconstruction from Euclid Avenue to East 38<sup>th</sup> Street Project (Agreement No. 2018-17-118); and

**WHEREAS**, in order to effectuate the IDOT agreement, it is necessary for the City of Des Moines to transfer public road jurisdiction and convey certain right-of-way acquired by the City for the Project, as described below, by Quit Claim Deed to the State of Iowa, for the benefit and use of the IDOT, in accordance with Sections 306.42 and 364.7(3) of the Iowa Code; and

**WHEREAS**, on September 23, 2019, by Roll Call No. 19- 1487, it was duly resolved by the City Council that the proposed conveyance of property interests purchased for the Hubbell Avenue Improvements – East 33<sup>rd</sup> Street to East 38<sup>th</sup> Street Project, be set down for hearing on October 14, 2019, at 5:00 p.m., in the City Council Chamber; and

**WHEREAS**, due notice of said proposal to convey this public real property was given to all necessary parties 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 this 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed jurisdictional transfer and conveyance of this property as described below are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of the transfer of public road jurisdiction and conveyance of property in the vicinity of 3790 Hubbell Avenue and 3770 Hubbell Avenue, Des Moines, Iowa, to the State of Iowa, for the benefit and use of the Iowa Department of Transportation, as required for the Hubbell Avenue Improvements – East 33<sup>rd</sup> Street to East 38<sup>th</sup> Street Project, at no cost, which right-of-way was acquired by the City of Des Moines pursuant to a Warranty recorded on November 30,

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2018, in Book 17165, Page 231 in the office of the Polk County Recorder and pursuant to a Warranty Deed recorded on August 30, 2019, in Book 17474, Page 967 in the office of the Polk County Recorder, and legally described as follows:

THE SOUTH 16.00 FEET (AS MEASURED PERPENDICULAR TO THE NORTH RIGHT OF WAY LINE OF FREDRICK M. HUBBELL) OF A PARCEL BEGINNING AT THE INTERSECTION OF THE WEST LINE OF EAST 38TH STREET AND THE NORTH LINE OF AVENUE FREDRICK M. HUBBELL, THENCE RUNNING NORTH 60 FEET, THENCE WEST 60 FEET, THENCE SOUTH TO THE NORTH LINE OF AVENUE FREDRICK M. HUBBELL, THENCE IN A NORTHEASTERLY DIRECTION ALONG THE NORTH LINE OF AVENUE FREDRICK M. HUBBELL TO THE PLACE OF BEGINNING, EXCEPT THE 2 FEET LYING ADJACENT TO AND PARALLEL TO THE NORTH RIGHT OF WAY LINE OF FREDRICK M. HUBBELL, ALL IN THE EAST 10 ACRES OF THE SE 1/4 OF THE SE 1/4 OF SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., IOWA, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING 0.03 ACRES (1181 SQ. FT.)

AND

THE SOUTH 16.00 FEET (AS MEASURED PERPENDICULAR TO THE SOUTHERLY LINE) OF PARCEL "B" OF THE EAST 10 ACRES OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 IN SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 7173, PAGE 686 AND CONTAINING 0.03 ACRES (1316 SQ. FT.)

3. That the jurisdictional transfer and conveyance by the City of Des Moines of the above described right-of-way to the State of Iowa, for the benefit and use of the Department of Transportation, in accordance with Sections 306.42 and 364.7(3) of the Iowa Code, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
6. The City Clerk is authorized and directed to forward the original of this Quit Claim Deed, 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.

9. There will be no proceeds associated with the conveyance of this property.

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

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

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

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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.

\_\_\_\_\_ Mayor

\_\_\_\_\_ Acting City

# PROPERTY LOCATION

