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Date..... April 9, 2007

RESOLUTION PERMITTING THE ENTIRE WIDTH OF THE ADJOINING ALLEY
RIGHT-OF-WAY TO BE USED TO SATISFY THE BUILDING CODE SEPARATION
REQUIREMENTS FOR THE DAVIS BROWN TOWER

WHEREAS, LB Properties X, L.L.C., represented by Jon D. Garnaas, Managing Member, is replacing the Hotel Fort Des Moines parking garage with a new 13-story building to be known as the Davis Brown Tower containing a mix of retail/restaurant use, structured parking and office space; and,

WHEREAS, the Davis Brown Tower will have windows and wall openings in the east wall adjoining the north/south alley; and,

WHERE, the International Building Code requires that a physical barrier or separation be provided to prevent the spread of fire between the building and any existing and potential future buildings on adjoining properties; and,

WHEREAS, only one-half of the remaining 14.5 foot width of the adjoining north/south alley right-of-way may be counted towards meeting the required setback unless the City Council has by resolution declared an intent to permanently maintain the adjoining right-of-way as a public alley, and to never permit a structure to be constructed or placed upon the right-of-way within the required separation from the exterior wall of the Davis Brown Tower; and,

WHEREAS, LB Properties X, L.L.C., has requested that the City Council declare the City's intent to permanently maintain the adjoining portion of the north/south alley as a public alley, and to never permit a structure to be constructed or placed upon the right-of-way within the required separation from the east wall of the Davis Brown Tower; NOW THEREFORE,

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

1. The City Council hereby declares its intent to permanently maintain the remaining 14.5 foot wide North/South alley with the block bounded by 9th, 10th, Walnut and Mulberry Streets, and more specifically described as follows, as a public alley, and to never permit a structure to be constructed or placed upon such right-of-way, exclusive of the existing Skywalk Bridge extension at the north end of such alley.

The West 8.5 feet of the North/South alley right-of-way lying East of and adjoining Lot 6, in John A. Garver's Subdivision of Lots 5 and 6, in Block 2, in West Fort Des Moines, an Official Plat; and, the West 8.5 feet of the North/South alley right-of-way lying East of and adjoining the vacated East/West alley right-of-way lying South of said Lot 6; and, the West 8.5 feet of the North/South alley

(continued)

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right-of-way lying East of and adjoining Lot 7, in Block 2, in West Fort Des Moines, an Official Plat; and, the West 8.5 feet of the North/South alley right-of-way lying East of and adjoining Lots 7 and 8, in Block 12, in H.M. Hoxie's Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

AND, the East 6.0 feet of Lot 6, and the West 6.0 feet of the East 12.0 feet of the North 19.40 feet of said Lot 6, in John A. Garver's Subdivision of Lots 5 and 6 in Block 2 in West Fort Des Moines, an Official Plat; and East/West alley right-of-way lying South of and adjoining the East 6.0 feet of said Lot 6; and, the East 6.0 feet of Lot 7 in Block 2 in West Fort Des Moines, an Official Plat; and, the East 6.0 feet of Lots 7 and 8, in Block 12, in H.M. Hoxie's Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

- The City Clerk is hereby directed to provide a certified copy of this resolution to the Office of Economic Development for release to and recording by LB Properties, L.L.C., in the land records of the Polk County Recorder.

(Council Communication No. 07-202)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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NOTE: This resolution is intended to permit the Davis Brown Tower to be renovated with windows and openings in the eastern facade under the special provisions in Section 26-42 of the Building Code.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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