

Date April 10, 2006

SET HEARING TO VACATE AND CONVEY A PERMANENT EASEMENT TO BROWNSTONES ON GRAND, L.L.C. FOR SUBSURFACE RIGHTS LOCATED IN A ONE FOOT-STRIP OF STREET RIGHT-OF-WAY ADJACENT TO THE BLOCK ENCOMPASSED BY 2ND AVENUE, WATSON POWELL, JR. PARKWAY, 3RD STREET AND GRAND AVENUE FOR \$2,200.00

WHEREAS, Brownstones on Grand, L.L.C., desires to install footings below the surface of portions of a one-foot strip of street right-of-way adjacent to the block encompassed by 2nd Avenue, Watson Powell, Jr. Parkway, 3rd Street and Grand Avenue for the construction of a new residential development consisting of five buildings containing 43 townhomes; and

WHEREAS, the grantee identified below is the owner of property abutting such rights-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and conveyance of an easement for the subsurface rights within portions of such rights-of-way described below.

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

- 1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating portions of the subsurface rights within the public rights-of-way adjoining the block encompassed by 2nd Avenue, Watson Powell, Jr. Parkway, 3rd Street and Grand Avenue, more specifically described as follows:

EXHIBIT "A"

A strip of ground below grade being the South 1.0 foot of Watson Powell Jr. Way lying North and adjoining Lot 1, except the West 9.0 feet, Block 4, Bird's Addition, an Official Plat, and lying North of and adjoining vacated alley in said Block 4, and lying North of and adjoining Lot 1, Second Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Northeast Corner, Lot 1, of said Second Street Place; Thence North 88°(degrees) 34'(minutes) 14" (seconds) West, along the South right-of-way line of Watson Powell Jr. Way, 76.01 feet to the POINT OF BEGINNING. Thence continuing North 88°34'14" West, 171.44 feet, along the South right-of-way line of Watson Powell Jr. Way; Thence South 00°34'17" West, along the East line of the West 9.0 feet of Lot 1, of said Block 4, a distance of 50.55 feet and being the East right-of-way line of 3rd Street; Thence North 89°25'43" West, 1.40 feet;

DESCRIPTION APPROVED [Signature]

Date April 10, 2006

Thence North 01°25'46" East, 51.54 feet;
Thence South 88°34'14" East, 172.08 feet;
Thence South 01°25'46" West, 1.00 foot to the POINT OF BEGINNING, containing by survey 225 sq. ft.

EXHIBIT "B"

The area below grade of a strip of ground in the West 9.0 feet of Lot 2, Block 4, Bird's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa more particularly described as follows:

Commencing at the Northeast Corner, Lot 1, Second Street Place, an Official Plat;
Thence North 88°(degrees) 34'(minutes) 14"(seconds) West, along the South right-of-way line of Watson Powell Jr. Way, 247.46 feet to the East line of the West 9.0 feet Lots 1 thru 5, Block 4, Bird's Addition, an Official Plat, and being the East right-of-way line of 3rd Street;
Thence South 00°34'17" West, along the East right-of-way line of 3rd Street, 75.80 feet to the POINT OF BEGINNING.
Thence continuing South 00°34'17" West, along the said East right-of-way line of 3rd Street and being the East line of the West 9.0 feet of Lot 2, of said Block 4, 42.75 feet;
Thence North 88°34'14" West, 1.40 feet;
Thence North 01°25'46" East, 42.75 feet;
Thence South 88°34'14" East, 0.76 feet to the POINT OF BEGINNING, containing by survey 46 sq. ft.

DESCRIPTION APPROVED
James D. Wittkop

EXHIBIT "C"

The area below grade of a strip of ground in the West 9.0 feet of Lot 3 and 4, Block 4, Bird's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa more particularly described as follows:

Commencing at the Northeast Corner, Lot 1, Second Street Place, an Official Plat;
Thence North 88°(degrees)34'(minutes)14"(seconds) West, along the South right-of-way line of Watson Powell Jr. Way, 247.46 feet to the East right-of-way line of 3rd Street also being the East line of the West 9.0 feet of Lots 1 thru 5, of said Block 4;
Thence South 00°34'17" West, 192.35 feet to the POINT OF BEGINNING.
Thence continuing South 00°34'17" West along the East right-of-way line of 3rd Street, 6.48 feet;
Thence North 15°14'24" West, 6.23 feet;
Thence North 74°45'36" East, 1.76 feet to the POINT OF BEGINNING, containing by survey 5.5 sq. ft.

Date April 10, 2006

EXHIBIT "D"

The area below grade of a strip of ground in the West 9.0 feet of Lot 5, Block 4, Bird's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa more particularly described as follows:

Commencing at the Northeast Corner, Lot 1, Second Street Place, an Official Plat; Thence North 88°(degrees) 34'(minutes) 14"(seconds) West, along the South right-of-way line of Watson Powell Jr. Way, 247.46 feet to the East line of the West 9.0 feet of Lots 1 thru 5, Block 4 of said Bird's Addition; and being the East right-of-way line of 3rd Street; Thence South 00°34'17" West, along the East right-of-way line of 3rd Street, 263.02 feet to the POINT OF BEGINNING. Thence continuing South 00°34'17" West, along the said East right-of-way line, 6.48 feet; Thence North 15°14'24" West, 6.23 feet; Thence North 74°45'36" East, 1.76 feet to the POINT OF BEGINNING, containing by survey 5.5 sq. ft.

DESCRIPTION APPROVED
James D. ...

EXHIBIT "E"

The area below grade of a strip of Grand Avenue right-of-way lying South of and adjoining Lots 3 and 4, Second Street Place, an Official Plat; and being a strip below grade being the North 1.0 foot of the South 7.0 feet of Lot 5, Block 4, Bird's Addition, an Official Plat, and the North 1.0 foot of the South 7.0 feet of vacated North/South alley in said Block 4, all now included in and forming a part of the City of Des Moines, Polk County, Iowa more particularly described as follows:

Commencing at the Northeast Corner, Lot 1, of said Second Street Place; Thence South 00°(degrees) 05'(minutes) 22"(seconds) West, along the West right-of-way line of 2nd Avenue to the Southeast Corner of said Lot 4, a distance of 241.73 feet; Thence South 74°45'36" West, along the North right-of-way line of Grand Avenue, 31.87 feet to the POINT OF BEGINNING. Thence South 15°14'24" East, 1.00 foot; Thence South 74°45'36" West, 213.71 feet; Thence North 15°14'24" West, 1.00 foot; Thence North 74°45'36" East, along the North right-of-way line of Grand Avenue, 213.71 feet to the POINT OF BEGINNING, containing by survey 214 sq. ft.

EXHIBIT "F"

The area below grade of a strip of street right-of-way lying North and East of and adjoining Lot 1 and lying East of and adjoining Lot 2 of Second Street Place, an Official Plat, all now

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included in and forming a part of the City of Des Moines, Polk County, Iowa more particularly described as follows:

Beginning at the Northeast Corner, Lot 1, of said Second Street Place the POINT OF BEGINNING.

Thence North 88°(degrees) 34'(minutes) 14"(seconds) West, 21.38 feet; along the South right-of-way line of Watson Powell Jr. Way;

Thence South 89°54'38" East, 22.37 feet;

Thence South 00°05'25" West, 192.75 feet;

Thence North 89°54'38" West, to the West right-of-way line of 2nd Avenue, 1.00 foot;

Thence North 00°05'22" East, along the West right-of-way line of 2nd Avenue, 192.25 feet to the POINT OF BEGINNING, containing by survey 230 sq. ft.

2. That if the City Council decides to vacate the above described rights-of-way, the City of Des Moines proposes to grant an easement for subsurface rights within portions of such rights-of-way, as described below to the grantees and for the consideration identified below:

To: Brownstones on Grand, L.L.C. for \$2,200.00

EXHIBIT "A"

A vacated strip of ground below grade being the South 1.0 foot of Watson Powell Jr. Way lying North and adjoining Lot 1, except the West 9.0 feet, Block 4, Bird's Addition, an Official Plat, and lying North of and adjoining vacated alley in said Block 4, and lying North of and adjoining Lot 1, Second Street Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

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Thence South 00°34'17" West, along the East line of the West 9.0 feet of Lot 1, of said Block 4, a distance of 50.55 feet and being the East right-of-way line of 3rd Street;

Thence North 89°25'43" West, 1.40 feet;

Thence North 01°25'46" East, 51.54 feet;

Thence South 88°34'14" East, 172.08 feet;

Thence South 01°25'46" West, 1.00 foot to the POINT OF BEGINNING, containing by survey 225 sq. ft.

DESCRIPTION APPROVED
James A. [Signature]

Date April 10, 2006

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Thence continuing South 00°34'17" West, along the said East right-of-way line of 3rd Street and being the East line of the West 9.0 feet of Lot 2, of said Block 4, 42.75 feet;

Thence North 88°34'14" West, 1.40 feet;

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Thence South 00°34'17" West, 192.35 feet to the POINT OF BEGINNING.

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DESCRIPTION APPROVED

James R. Wright

Date April 10, 2006

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Thence continuing South 00°34'17" West, along the said East right-of-way line, 6.48 feet; Thence North 15°14'24" West, 6.23 feet; Thence North 74°45'36" East, 1.76 feet to the POINT OF BEGINNING, containing by survey 5.5 sq. ft.

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Beginning at the Northeast Corner, Lot 1, of said Second Street Place the POINT OF BEGINNING.

DESCRIPTION APPROVED
James B. Whitshop

★ Roll Call Number

Agenda Item Number

24

Dispositions – Brownstones on Grand, L.L.C.: Page 7

Date April 10, 2006

DESCRIPTION APPROVED

James D. Whitlock

Thence North 88°(degrees) 34'(minutes) 14"(seconds) West, 21.38 feet; along the South right-of-way line of Watson Powell Jr. Way;
 Thence South 89°54'38" East, 22.37 feet;
 Thence South 00°05'25" West, 192.75 feet;
 Thence North 89°54'38" West, to the West right-of-way line of 2nd Avenue, 1.00 foot;
 Thence North 00°05'22" East, along the West right-of-way line of 2nd Avenue, 192.25 feet to the POINT OF BEGINNING, containing by survey 230 sq. ft.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such subsurface rights is to be considered shall be on April 24, 2006, said meeting to be held at 5:00 p.m., in the Council Chamber.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. The proceeds from the sale of this property shall be deposited into the following account: 2006-07 Operating Budget, Page 310, Property Maintenance, SP767.

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato

Ann DiDonato
 Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| KIERNAN | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| BROOKS | | | | |
| 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

