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Date April 24, 2006

HOLD 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 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 subsurface rights within portions of such rights-of-way described below; and

WHEREAS, on April 10, 2006, by Roll Call No. 06- 627, it was duly resolved by the City Council that the proposed vacation and conveyance of an easement for such subsurface rights be set down for hearing on April 24, 2006, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey this easement was given as provided 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 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of a permanent easement for subsurface rights in portions of street rights-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the subsurface rights located within public street right-of-way described below, and the public would not be inconvenienced by reason of the vacation and conveyance of subsurface rights located in a one-foot strip of right-of-way adjacent to the block encompassed by 2nd Avenue, Watson Powell, Jr. Parkway, 3rd Street and Grand Avenue, more specifically described as follows:

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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; 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 R. [Signature]

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.

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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.

DESCRIPTION APPROVED
James D. Smith

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.

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

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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 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.

3. That the sale and conveyance of a permanent easement for such subsurface rights to Brownstones on Grand, L.L.C. for \$2,200.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

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

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James R. Dierker

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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; 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.

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 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.

EXHIBIT "D"

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 Moines, Polk County, Iowa more particularly described as follows:

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 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
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EXHIBIT "E"

The vacated 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;

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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.

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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.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Permanent 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement, 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.

DESCRIPTION APPROVED
James D. Bishop

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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement and copies of the other documents to the grantees.

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

(Council Communication No. 06-223)

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				

CERTIFICATE

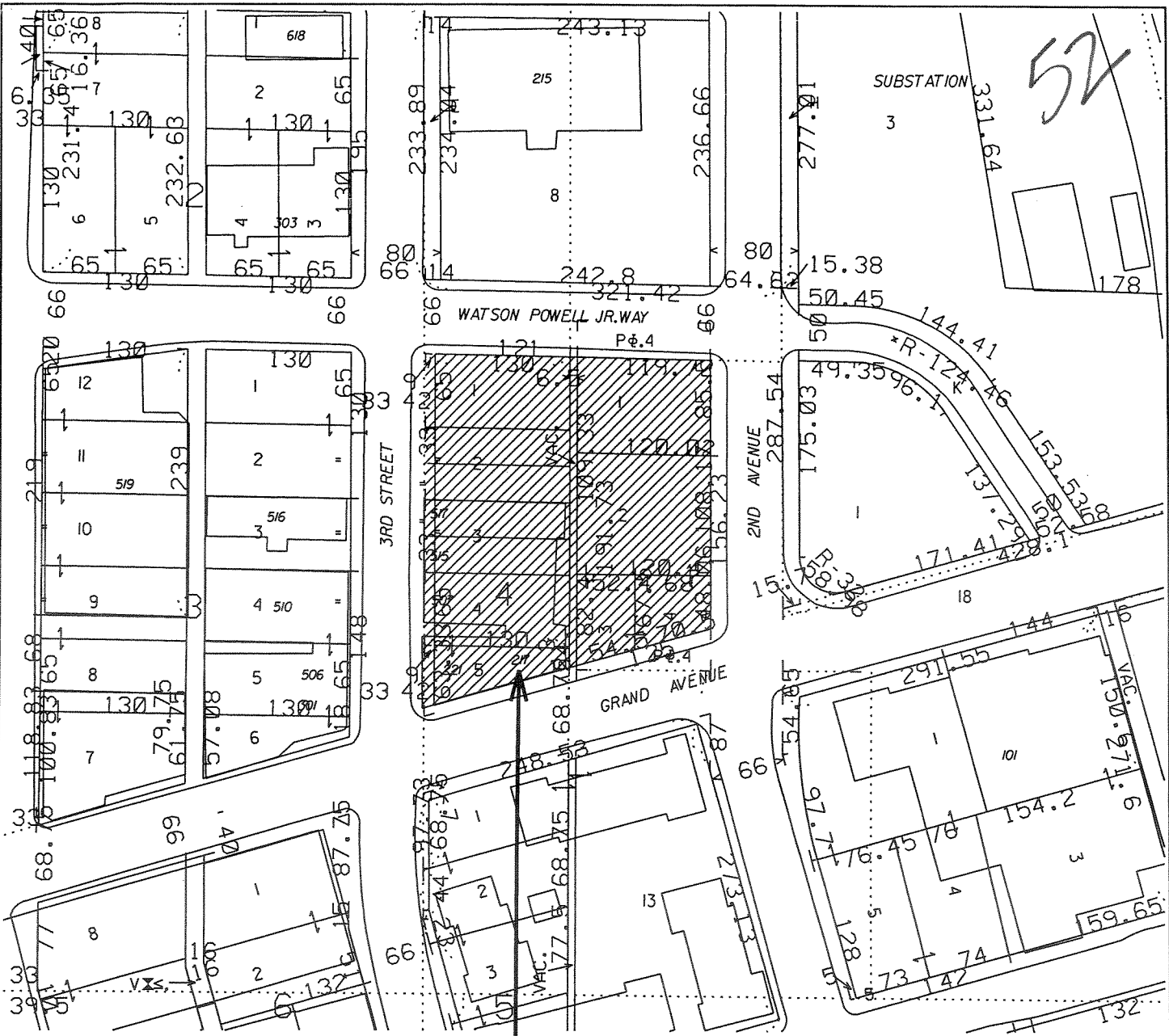
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

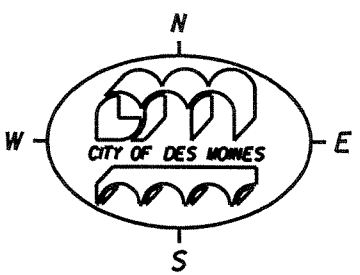
Mayor

City Clerk



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PROPERTY
LOCATION



PROPERTY DISPOSITION
BROWNSTONES ON GRAND
ACTIVITY I.D. 34-2006-045