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.....  
Date..... October 23, 2006

**APPROVING PARTIAL RELEASE OF LIEN IN CONJUNCTION WITH THE EASTER LAKE  
SANITARY TRUNK SEWER CONNECTION FEE AGREEMENT AND COVENANT, AND  
DIRECT THE LEGAL DEPARTMENT TO BRING BACK AN ORDINANCE AUTHORIZING  
THE CITY MANAGER TO EXECUTE RELEASE OF LIENS ASSOCIATED WITH ANY  
SEWER CONNECTION FEE AGREEMENT AND COVENANT**

WHEREAS, on October 6, 2003, by Resolution No. 03-2317, the City Council approved a Sewer Connection Fee Agreement and Covenant with Gerald D. Grubb (the developer) for residential development of the property; and

WHEREAS, the developer was proposing to develop only 35 buildable lots at that time, leaving a portion of the property undeveloped until there was a market for further development; and

WHEREAS, pursuant to that agreement, the City agreed to defer payment of the connection fee for the property that was not being developed at that time in exchange for the commitments with respect to the payment of the sewer connection fees on the undeveloped property; and

WHEREAS, by virtue of the Agreement, the Developer gave the City, a first lien against the undeveloped property as security for payment of deferred amounts; and

WHEREAS, the City has received payment for sewer connection fee on the following property legally described as follows:

Lots 1 thru 70 of Carman Estates Plat 2, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Lots 1 thru 12 of Carman Estates Plat 3, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Lots 1 thru 42 of Carman Estates Plat 4, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Lots 1 thru 6 of Carman Estates Plat 5, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

for which the City intends to issue a Partial Release of Lien; and

WHEREAS, the remaining portion of the property legally described as follows:

Outlot 'Z' of Carman Estates Plat 4, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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Outlot 'Y' of Carman Estates Plat 5, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

has not yet paid sewer connection fees and shall remain subject to the lien.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That the attached Partial Release of Lien, in connection with the Easter Lake Sanitary Trunk Sewer Connection Fee Agreement and Covenant, a copy of which is on file in the Office of the City Clerk, is hereby approved as to form and content.
2. That the Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, said Partial Release of Lien for and on behalf of the City of Des Moines.
3. That the Legal Department is directed to bring back an ordinance authorizing the City Manager or an authorized Representative to execute Releases of Liens associated with payments provided for in any Sewer Connection Fee Agreement and Covenant.

(Council Communication No. 06-681 attached)

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

APPROVED AS TO FORM:

FUNDS AVAILABLE:

Kathleen Vanderpool  
Kathleen Vanderpool  
Deputy City Attorney

\_\_\_\_\_  
Merrill R. Stanley  
Assistant City Manager/Finance Director

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
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