

★ **Roll Call Number**

Agenda Item Number

7 A

Date February 25, 2008

RESOLUTION APPROVING PETITION AND WAIVER

WHEREAS, the Council discussed the matter of constructing improvements, generally described as Carpenter Avenue Reconstruction from 30th Street to 31st Street, Activity ID 06-2008-014, Schedule No. 2008-04, described as street reconstruction twenty-six (26) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, pavement removal, 6' sidewalk, traffic signals, surface restoration and other incidental items, together with the necessary drainage facilities on Carpenter Avenue from 30th Street to 31st Street.

WHEREAS, a petition and waiver, duly executed by owners of property (Drake University) to be assessed for the proposed public improvements, was officially filed with the Clerk of said City.

WHEREAS, a Petition and Waiver has been duly executed by the owner of property agreeing thereby to be assessed for the cost as shown on the Assessment Schedule for Carpenter Avenue Reconstruction from 30th Street to 31st Street, Activity ID 06-2008-014, Schedule No. 2008-04, the same being attached hereto; and

WHEREAS, upon investigation it is found that the holders of all liens and encumbrances against said benefited property to be assessed pursuant to said Petition and Waiver have executed and agreed to and have subordinated their liens to the provisions of same; and

WHEREAS, the following action is deemed appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the aforesaid Petition and Waiver attached hereto be and the same is hereby approved and accepted for and on behalf on this City.

(Council Communication No. 08-089)

Moved by _____ to adopt.

FORM APPROVED: 
 Kathleen Vanderpool
 Deputy City Attorney



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

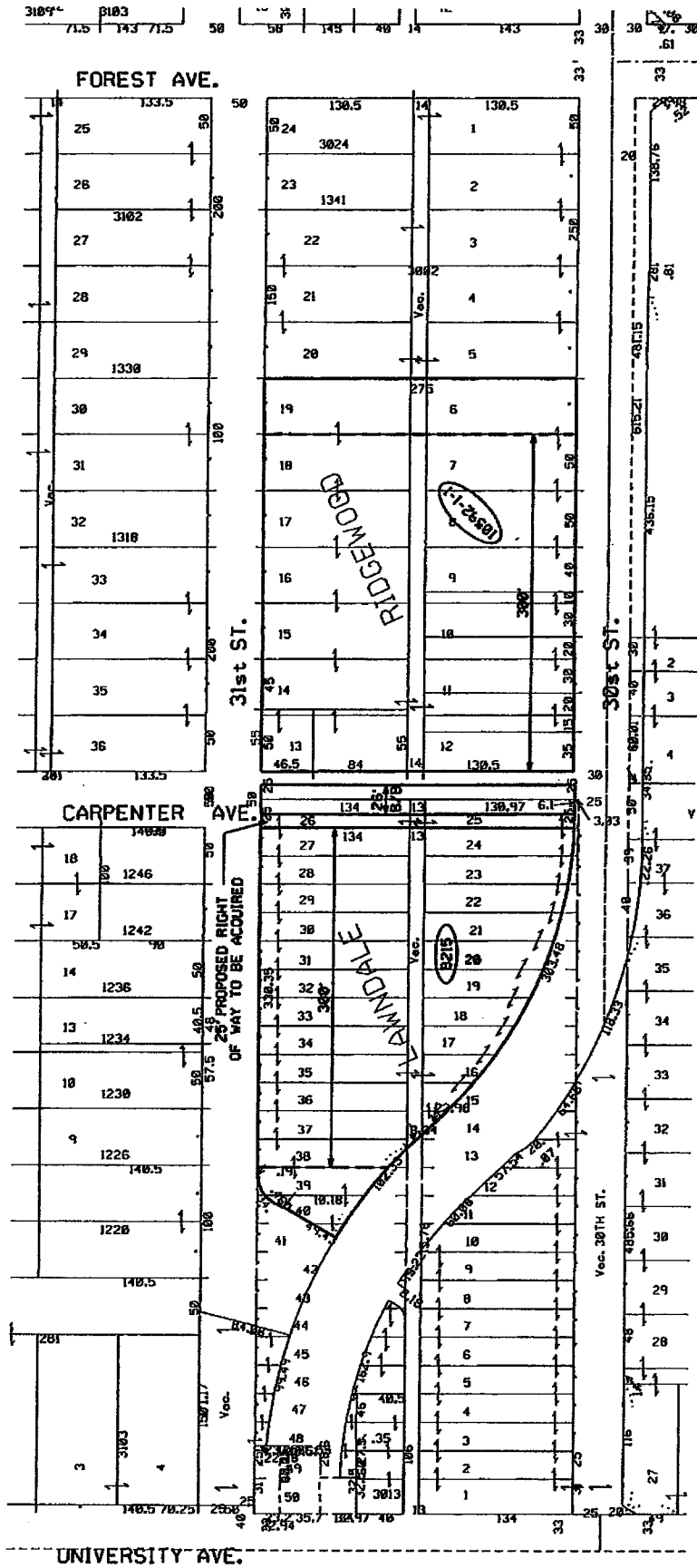
MOTION CARRIED APPROVED

 Mayor

 City Clerk

7A

DISTRICT 10



LEGEND

- ASSESSMENT BOUNDARY
- AREA CALCULATION LINE
- CORNER LOT REDUCTION
- LOT LINE
- OWNERSHIP LINE
- EXISTING PAVEMENT
- PROPOSED PAVEMENT
- PARCEL



2007-08 PAVING PROGRAM
 CARPENTER AVE. RECONSTRUCTION
 30th STREET TO 31st STREET
 ACTIVITY I.D. 06-2008-014

PETITION AND WAIVER

THIS AGREEMENT made and entered into by and between the City of Des Moines, Iowa, hereinafter called the CITY, and the undersigned property owner in said City, hereinafter called the PROPERTY OWNER, WITNESSETH:

WHEREAS, the City proposes to construct street paving improvements ("improvements") in said City; and

WHEREAS, the undersigned Property Owner desires that the improvements be constructed to benefit its respective property and that special assessments be levied against its property as hereinafter described opposite its name. The general description and location of said improvements being as follows:

Carpenter Avenue Reconstruction from 30th Street to 31st Street, Activity ID 06-2008-014, Schedule No. 2008-04, described as street reconstruction twenty-six (26) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, pavement removal, 6' sidewalk, traffic signals, surface restoration and other incidental items, together with the necessary drainage facilities on Carpenter Avenue from 30th Street to 31st Street

The properties to be assessed are described as follows:

- District/Parcel 100/10592-001-001 being:
LOTS 6 THRU 19 & VAC N/S ALLEY W & ADJ LTS 6-12 RIDGEWOOD
- District/Parcel 100/08215-000-000 being:
BEG 3.03F W OF NE COR LT 25 S6.1F SWLY 447.13F ALONG NWLY ROW LINE
RELOCATED 30th ST NWLY 94.07F ALONG NELY ROW LINE RELOCATED 31st
ST W .19F TO E ROW LINE 31st ST N 330.35F TO NW COR LOT 26 E TO POB
INTERV VAC ALLEY & LOTS 14 thru 41 LAWNDAL

NOW, THEREFORE, BE IT AGREED AMONG THE PARTIES HERETO AS FOLLOWS:

As soon as practicable, the City shall have the right to cause the above-described improvements to be constructed in accordance with such plans and specifications as it shall deem appropriate. The construction of said improvements shall be under the supervision of the City Engineer.

For the purpose of this Agreement, the City may elect to enter into contract for the construction of said improvements as a part of any contract for a public improvement project entered into prior to the receipt of this instrument as authorized by Section 384.41(2) of the City Code of Iowa.

In consideration of the construction of said improvements, the undersigned Property Owner hereby waives the public hearing on the adoption of the Resolution of Necessity and the mailing and publication of Notice thereof, and all other legal formalities of whatsoever kind or character required by the laws of Iowa to be observed by cities in the construction of said improvements where the expense of such improvements is to be assessed against private property. The undersigned Property Owner hereby expressly waives each and every question of jurisdiction, the intention of the Property Owner being to authorize and direct said City to construct the improvement without requiring any of the formalities or legal proceedings required of cities by the statutes of Iowa.

It is further agreed that when said improvements have been constructed in accordance with the plans and specifications that the City may make assessments against the property of the undersigned Property Owner, the cost for construction of said improvements as shown on Preliminary Assessment Schedule No. 2008-04, being Exhibit "A" attached hereto and described as:

Carpenter Avenue Reconstruction from 30th Street to 31st Street, Activity ID 06-2008-014, Schedule No. 2008-04, described as street reconstruction twenty-six (26) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, pavement removal, 6' sidewalk, traffic signals, surface restoration and other incidental items, together with the necessary drainage facilities on Carpenter Avenue from 30th Street to 31st Street

including the actual cost of engineering, supervision, preparation of assessment schedule, and that said assessments so made shall be a lien upon the property hereinafter described, and the undersigned Property Owner hereby agrees to pay the amount which is thus assessed against its property, and said assessment shall have the same legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed. In the event that the Property Owner decides not to proceed with this project, the Property Owner agrees to pay all design costs and administrative cost associated with the project to the date of project termination. The undersigned Property Owner hereby expressly waives every objection to said assessment, any limitation of the amount thereof as a percentage of valuation and any right to defer or postpone payment of the assessment. Said assessment shall be paid by the undersigned Property Owner within the time provided by Statute for the payment of special assessments for such improvements. Carpenter Avenue Reconstruction from 30th Street to 31st Street, Activity ID 06-2008-014, Schedule No. 2008-04, may be paid with 10 annual installments. All property owners entitled to agricultural deferment under Chapter 384 of the City Code of Iowa hereby waive their right to such deferral.

The amount and proportion of the cost of the improvements, to be paid by the Property Owner, shall be ascertained and determined by the Engineers and by them reported to the City Council which shall make such changes or alterations as they may require, and when said assessments are finally passed by the Council and by it levied, they shall constitute the assessments against the property.

The City's Engineer has prepared a preliminary schedule of assessments for each of the properties included in the district, which schedule is attached hereto as Exhibit "A". Property owners and City agree that no final assessments will exceed the amount shown on said Exhibit "A" by more than 0%.

Property Owner hereby authorizes the City Council to pass any Resolution requisite or necessary to order and secure said improvements, to provide for the construction of the same and to make the assessments herein provided for, without further notice to said Property Owner, and any such Resolution may contain recitals that said improvements are ordered or made by the Council without petition of property owners, without in any way qualifying this petition or releasing the Property Owner from its obligation to pay the assessments levied against its property for the cost of said improvements and to issue improvement bonds payable out of said assessments.

Property Owner warrants that its real estate described below is free and clear of all liens and encumbrances other than for ordinary taxes, except for such liens as are held by lienholders hereinafter listed and designated as signers of this Petition and Waiver, who by execution of this Petition consent to the subordination of their lien to the special assessment liens herein described. Property Owner further agrees to subordinate the sale of any part of its listed property to the terms of this Petition and Waiver, and, upon failure to do so, to pay the full amount of the assessment on demand. Each lienholder designated below, by

execution of this Petition and Waiver, agrees and consents that its lien or liens shall be subordinated to the lien of the assessments levied pursuant hereto.

Property Owner agrees that this Petition and Waiver shall be effective and binding from and after the approval hereof by resolution of the City Council.

Dated this _____ day of _____, 2008.

Presented to the City Council on _____, 2008

Approved by the City Council on _____, 2008

City Clerk

PROPERTY OWNER

**CARPENTER AVENUE RECONSTRUCTION FROM 30TH STREET TO 31ST STREET
ACTIVITY ID 06-2008-014, SCHEDULE NO. 2008-04**

OWNER'S NAME: Drake University

By: Victoria Payseur

By: Victoria Payseur
Signature

Date: 2/13/08

Witness: Jelena Ahmed

LIENHOLDER'S NAME: _____

By: _____

By: _____
Signature-Title, if any

Date: _____

Witness: _____

LIENHOLDER'S NAME: _____

By: _____

By: _____
Signature-Title, if any

Date: _____

Witness: _____

PROPERTY ADDRESS:

1315 31st Street and property south of
and abutting Carpenter Avenue between
30th Street and 31st Street

DESCRIPTION OF PROPERTY:

- 1315 31st Street being
District/Parcel 100/10592-001-001:

LOTS 6 THRU 19 & VAC
N/S ALLEY W & ADJ
LTS 6-12 RIDGEWOOD

- Property south of and abutting
Carpenter Avenue between 30th Street
and 31st Street being District/Parcel
100/08215-000-000:

BEG 3.03F W OF NE COR LT 25
S6.1F SWLY 447.13F ALONG
NWLY ROW LINE
RELOCATED 30th ST NWLY
94.07F ALONG NELY ROW
LINE RELOCATED 31st ST W
.19F TO E ROW LINE 31st ST N
330.35F TO NW COR LOT 26 E
TO POB INTERV VAC
ALLEY & LOTS 14 thru 41
LAWNDALE

EXHIBIT "A"

PRELIMINARY ASSESSMENT SCHEDULE TABULATION

for

CARPENTER AVENUE RECONSTRUCTION

30th STREET TO 31st STREET

Activity ID No. 06-2008-014

Schedule No. 2008-04

Tabulation of Assessable Costs

50% Construction Costs	105,000.00
Plus 50% Estimated Driveway Approach Cost	0.00
Plus Engineering Incidental Costs (Max. 10% Const. Cost)	<u>21,000.00</u>
Total Assessable Cost to be spread	126,000.00
Schedule Rounding Adjustment (+ or -)	0.00
Less City Participation: Minimum	0.00
Less City Participation: Corner Lots	0.00
Less City Participation: Non-Assessable Property	0.00
Less City Participation: Deficit	<u>0.00</u>
Total To Be Assessed	\$ 126,000.00

Tabulation of City Costs

Estimated Construction Cost	210,000.00
ROW and Easements	0.00
Plus Engineering Incidental Costs	<u>42,000.00</u>
Total Estimated Project Cost	252,000.00
Less Total Assessable Cost to be spread	<u>126,000.00</u>
Subtotal Non-Assessable Costs	126,000.00
Schedule Rounding Adjustment (+ or -)	0.00
Plus City Participation: Minimum	0.00
Plus City Participation: Corner Lots	0.00
Plus City Participation: Non-Assessable Property	0.00
Plus City Participation: Deficit	0.00
Total City Cost	\$ 126,000.00

Total Points 53,495.79
 Point Rate 2.3553255312

PRELIMINARY
ASSESSMENT SCHEDULE NO 2008-04

CARPENTER AVENUE RECONSTRUCTION - 30th STREET TO 31st STREET

DESCRIPTION OF PROPERTY	CERTIFICATE NUMBER	OWNERS NAME PROPERTY ADDRESS	VALUATION		ASSESSMENT POINTS	TO BE ASSESSED	DEFICIT OR SUBSIDY	MAILING ADDRESS
			W/IMPROVEMENT IN PLACE	IN PLACE				
100/10592-001-001 LOTS 6 THRU 19 & VAC N/S ALLEY W & ADJ LTS 6-12 RIDGEWOOD	01-36921-00	T DRAKE UNIVERSITY 1315 31ST ST			27,500.00 NET TO BE ASSESSED:	64,771.45 64,771.45		DRAKE UNIVERSITY 2600 FOREST AVE DES MOINES, IA 50311-3014
100/08215-000-000 BEG 3.03F W OF NE COR LT 25 S6.1F SWLY 447.13F ALONG NWLY ROW LINE RELOCATED 30TH ST NWLY 94.07F ALONG NELY ROW LINE RELOCATED 31ST ST W.19F TO E ROW LINE 31ST ST N 330.35F TO NW COR LOT 26 E TO POB INTERV VAC ALLEY & LOTS 14 THRU 41 LAWNDALE	01-36922-00	T DRAKE UNIVERSITY (No Address)			25,995.79 NET TO BE ASSESSED:	61,228.55 61,228.55		DRAKE UNIVERSITY 2600 FOREST AVE DES MOINES, IA 50311-3014

Total Points 53,495.79
Total Assessment Cost 126,000.00
Less Total Deficit 0.00
Net Assessable Cost \$ 126,000.00