

Date May 19, 2007

Whereas, the City has received an application from Whatkin Enterprises, LLC, for a Sidewalk Cafe Lease for a portion of underground and surface right-of-way adjoining the Teachout Building at 500 E Locust Street; and

Whereas, the right-of-way adjoining 500 E Locust Street has not been previously vacated; and,

Whereas, the affected portion of the public right-of-way must first be vacated before the City may approve a Sidewalk Cafe Lease for the property; 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 a portion of the East 5<sup>th</sup> Street and East Locust Street rights-of-way adjoining the Teachout Building at 500 East Locust Street more specifically described as follows:

The East 11.0 feet of the E. 5th Street right-of-way lying West of and adjoining Lot 2, in H.E. TEACHOUT PLACE, an Official Plat, and the North 9.0 feet of the E. Locust Street right-of-of-way lying South of and adjoining the said Lot 2, and lying South of and adjoining the said East 11.0 feet of the E. 5th Street right-of-way lying West of and adjoining said Lot 2, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to lease such vacated right-of-way to Whatkin Enterprises, LLC for use as a sidewalk cafe.
3. That the meeting of the City Council at which the adoption of said ordinance and the lease of such real estate is to be considered shall be on June 9, 2008, said meeting to be held at 5 pm in the City Council Chambers.

( continued )

★ Roll Call Number

Agenda Item Number

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Date May 19, 2008

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

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K Brown*  
 Roger K. Brown  
 Assistant City Attorney

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