

July 9, 2007

Date

WHEREAS, the City has received an application from Midland Boesen LLC, represented by Jerry Matalone, for a sidewalk café to be used in conjunction with the business operation of Amici Espresso on a portion of the sidewalk adjoining the Midland Building at 206 6<sup>th</sup> Avenue ; and,

WHEREAS, the right-of-way adjoining the Midland Building at 206 6<sup>th</sup> Avenue 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 the proposed Sidewalk Café Lease; 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 6<sup>th</sup> Street and the Mulberry Street right-of-way adjoining the Midland Building at 206 6<sup>th</sup> Avenue, more specifically described as follows:

A portion of the Mulberry Street right of way lying south of and adjacent to Lot 5, Block 11, Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of said Lot 5; thence South 74°(degrees) 14'(minutes) 03"(seconds) West along the south line of said Lot 5 said line being the north right of way line of said Mulberry Street as it is presently established, a distance of 15.50 feet to the point of beginning; thence South 15°45'57" East, a distance of 4.25 feet; thence South 74°14'03" West, a distance of 45.00 feet; thence North 15°45'57" West, a distance of 4.25 feet to the south line of said Lot 5; thence North 74°14'03" East along the south line of said Lot 5, a distance of 45.00 feet to the point of beginning (containing 191.25 square feet more or less); and,

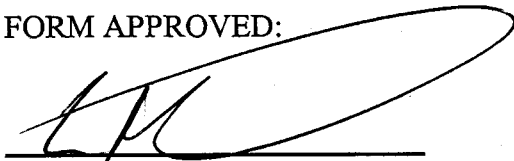
A portion of the 6<sup>th</sup> avenue right of way lying east of and adjacent to Lot 5, Block 11, Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of said Lot 5; thence North 15°(degrees) 30'(minutes) 00"(seconds) West along the east line of said Lot 5 said line being the west right of way line of said 6<sup>th</sup> Avenue as it is presently established, a distance of 19.00 feet to the point of beginning; thence continuing North 15°30'00" West along the east line of said Lot 5, a distance of 38.00 feet; thence North 74°30'00" East, a distance of 4.11 feet; thence South 15°30'00" East, a distance of 38.00 feet; thence South 74°30'00" West, a distance of 4.11 feet to the point of beginning (containing 156.18 square feet more or less).

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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 Midland Boesen LLC, for use as a sidewalk café.
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 July 23, 2007, said meeting to be held at 5:00 p.m. in the City Council Chambers.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form here to attached all in accordance with 362.3 of the Iowa Code.

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

FORM APPROVED:



Lawrence R. McDowell  
Deputy 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