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**Date** August 13, 2012

**ALTERNATE RESOLUTION**

**RESOLUTION CLOSING HEARING ON THE VACATION AND LEASE OF A PORTION OF THE PUBLIC SIDEWALK ADJOINING THE KOMODO CLUB AT 214 3rd STREET FOR A SIDEWALK CAFE, AND APPROVING SAME**

WHEREAS, the City has received an application from RSJS, LLC, doing business as the Komodo Club at 214 3rd Street, represented by Jason Smithson, for renewal of the Sidewalk Cafe Lease upon a portion of the adjoining sidewalk; and,

WHEREAS, the affected portion of the sidewalk must first be vacated before the City may approve the proposed Sidewalk Cafe Lease; and,

WHEREAS, on June 25, 2012, by Roll Call No. 12-0978, it was duly resolved by the City Council that the proposed vacation and lease of such right-of-way be set down for hearing on July 23, 2012, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to vacate and lease public right-of-way was published in the Des Moines Register on July 5, 2012, setting forth the time and place for hearing on said proposal; and,

WHEREAS, on July 23, 2012, by Roll Call No. 12-1181, the City Council continued the hearing until August 13, 2012, at 5:00 p.m.; and,

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and lease of public right-of-way are hereby overruled and the hearing is closed.
2. The proposed vacation and lease of a portion of the public sidewalk adjoining the Komodo Club at 214 3rd Street, more specifically described as follows, is hereby APPROVED.

Except the subsurface area below grade, the East 62.0 inches of the West 62.39 inches of the 3rd Street right-of-way lying East of and adjoining the South 1/3 of Lot 9, Block 24, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, containing approximately 114 square feet.

( continued )

Date August 13, 2012

3. Subject to final passage of an ordinance vacating the public sidewalk described above, the Permit and Development Center Administrator is hereby authorized and directed to sign a standard Sidewalk Lease Agreement with RSJS, LLC, for the use of the vacated sidewalk described above.

( Council Communication No. 12- 436 )

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

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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| COUNCIL ACTION | YEAS | NAYS | PASS     | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE         |      |      |          |        |
| COLEMAN        |      |      |          |        |
| GRIESS         |      |      |          |        |
| HENSLEY        |      |      |          |        |
| MAHAFFEY       |      |      |          |        |
| MEYER          |      |      |          |        |
| MOORE          |      |      |          |        |
| <b>TOTAL</b>   |      |      |          |        |
| MOTION CARRIED |      |      | APPROVED |        |

**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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Proposed Sidewalk Cafe for the Komodo Club at 214 3rd Street

