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Date January 28, 2008.....

**RESOLUTION APPROVING TERMINATION OF LEASE AGREEMENT AND RELEASE OF EASEMENT FOR INGRESS AND EGRESS IN A PORTION OF THE VACATED NORTH/SOUTH ALLEY IN THE VICINITY OF 309 COURT AVENUE**

**WHEREAS**, on April 28, 1997, by Roll Call No. 97-1540, the City Council approved a Lease Agreement for Sidewalk Café (“Lease Agreement”) between the City of Des Moines as Lessor and Madison Avenue Business Suites, Inc. (“Lessee”) for lease of a portion of the North/South alley in the vicinity of 309 Court Avenue (“Leased Premises”) for use as an outdoor restaurant patio, said Leased Premises being legally described as:

All the North/South alley right-of-way lying West of and Adjoining the South 87.0 feet of Lot 7, Block 24, Town of Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. (Vacated by Ordinance No. 13,497.)

and

**WHEREAS**, pursuant to the terms of the Lease Agreement, Lessee granted to the City of Des Moines a temporary Easement for Ingress and Egress (“Easement”) with the requirement that the City release said Easement upon termination of the Lease Agreement and upon Lessee’s surrender of the Leased Premises to the City; and

**WHEREAS**, pursuant to the terms of the Lease Agreement, the duration of the lease was for an original term of four and one-half (4 ½) years to expire on October 20, 2001, with three options provided for Lessee to renew the lease for additional five (5) year terms per option upon written notice to the City of Lessee’s intent to exercise each respective renewal option; and

**WHEREAS**, Lessee has failed to provide written notice to the City of Lessee’s intent to exercise its second renewal option and instead has surrendered the Leased Premises to the City and has requested that the City terminate the Lease Agreement and release the Easement as required upon termination of the lease.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa:

1. That the Lease Agreement for Sidewalk Café between the City of Des Moines as Lessor and Madison Avenue Business Suites, Inc. as Lessee be and is hereby terminated.
2. That the Mayor is authorized and directed to sign the Release of Easement for Ingress and Egress as required by the Lease Agreement, and the City Clerk is authorized and directed to attest to the Mayor’s signature.

★ **Roll Call Number**

**Agenda Item Number**

22

Lease Agreement – Alley Adjoining 309 Court Ave.

Date January 28, 2008

- That the City Clerk is authorized to forward the original of the Release of Easement, together with a certified copy of this resolution, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded and then forwarded to Lessee and/or agent for Lessee.

(Council Communication No. 08- 038 )

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

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

*REN*

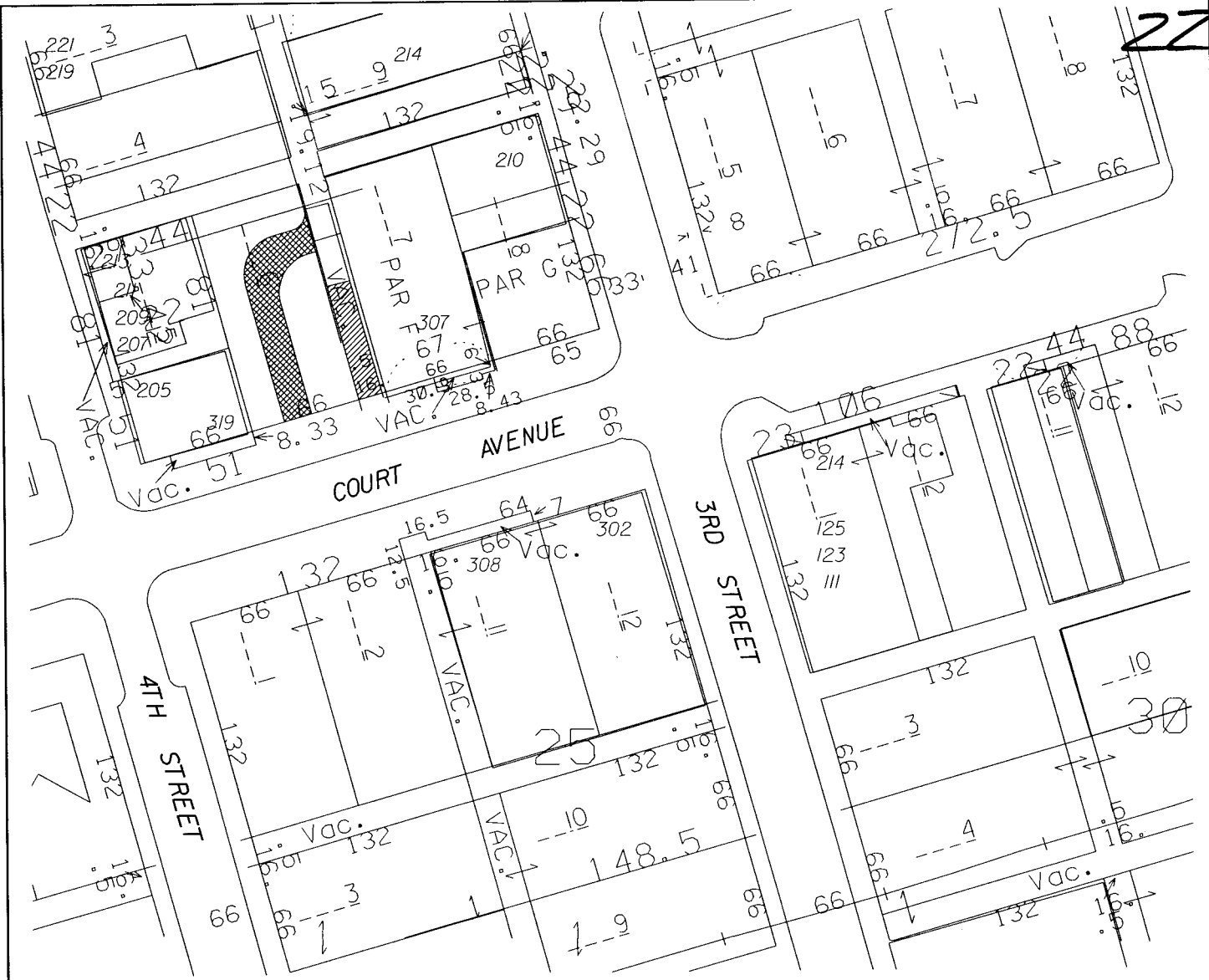
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				



**CERTIFICATE**

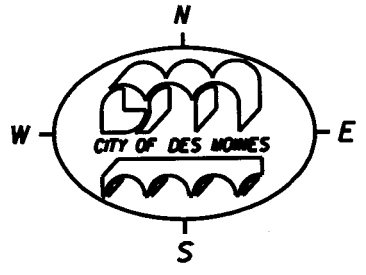
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

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



 PUBLIC EASEMENT  
 LEASE



**PROPERTY DISPOSTION**  
**309 COURT AVENUE**  
**ACT. I.D. 34-2003-001**