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Date February 25, 2008

HEARING ON ADOPTION OF THE PROPOSED RESOLUTION
OF NECESSITY FOR STREET IMPROVEMENTS

WHEREAS, on January 28, 2008, under Roll Call No. 08-095, the City Council set this time and place for a hearing to receive and consider both written and oral objections and endorsements to the adoption of the proposed Resolution of Necessity for the construction of the following street improvements:

- Street paving twenty-one (21) 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, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving twenty-six (26) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on E. 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)
- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)

and authorized notice of this hearing be duly published and mailed to property owners and other persons having an interest in the matter as required by law; and

WHEREAS, this City Council now meets as specified in the published notice to receive and consider all field, written and oral objections and endorsements to the proposed Resolution of Necessity.

WHEREAS, on January 17, 1983, under Roll Call Number 83-333, the City Council adopted a formal policy regarding adoption of the Resolution of Necessity which stated that

1. The City Council shall require 60% or more of the preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.
2. Where it is determined by the City Engineering Department that a street has drainage problems that can only be corrected by street paving, the City Council shall require 65% or more of the

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Date February 25, 2008

preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.

WHEREAS, the Engineering Department received several petitions from property owners subject to assessment on E 21st Street from Milton Avenue to dead end north petitioning against the paving improvement; and

WHEREAS, the City Engineer has verified the names on the petition and determined that those people petitioning against the paving improvements on E 21st Street represent 75% of the property owners on the assessment schedule and 74% of the amount to be assessed; and

WHEREAS, since the petition submitted by the property owners against the improvements on E 21st Street representing 74% of the amount to be assessed exceeds the Council's policy of 60%, the City Engineer recommends that E 21st Street from Milton Avenue to dead end north be deleted from the Resolution of Necessity.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That all filed, written and oral objections and endorsements having been fully reviewed and considered, the hearing on the adoption of the proposed Resolution of Necessity for the construction of said street improvements is now concluded and closed.

BE IT FURTHER RESOLVED: That the special assessments have been prepared in accordance with Council policy approved on June 26, 2000, under Roll Call No. 00-1876; therefore, Default Fund was not included in these special assessments.

BE IT FURTHER RESOLVED: That the City Council approves the recommendation of the City Engineer and hereby deletes E 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02, from the Resolution of Necessity.

BE IT FURTHER RESOLVED: That the proposed Resolution of Necessity described above for construction of the following street improvement:

- Street paving twenty-one (21) 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, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine

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Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)

is hereby:

- _____ Adopted, without further amendment, and all objections filed or may have been duly considered are overruled.
- _____ Adopted, as amended by the Schedule of Amendments attached hereto as Exhibit A, and made a part hereof by reference. All objections filed or made having been duly considered are overruled.
- _____ Closed regarding the Hearing and Action Deferred for later consideration to a Council meeting to be held on _____, 2008, next at 5:00 o'clock P.M., at this meeting place, with jurisdiction retained for further consideration and action at the adjourned meeting.
- _____ Abandoned.

Moved by _____ to adopt.

(Council Communication Number 08-088 attached)

FORM APPROVED: *Kathleen Vanderpool*
Kathleen Vanderpool, Deputy City Attorney

JEB Funding: 2007-2008 CIP, Page Street-8, City-wide Paving Program, STR013, being \$52,887.88 from Special Assessments against benefited property owners and \$152,342.12 in G. O. Bonds

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

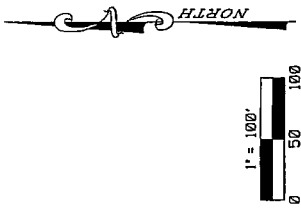
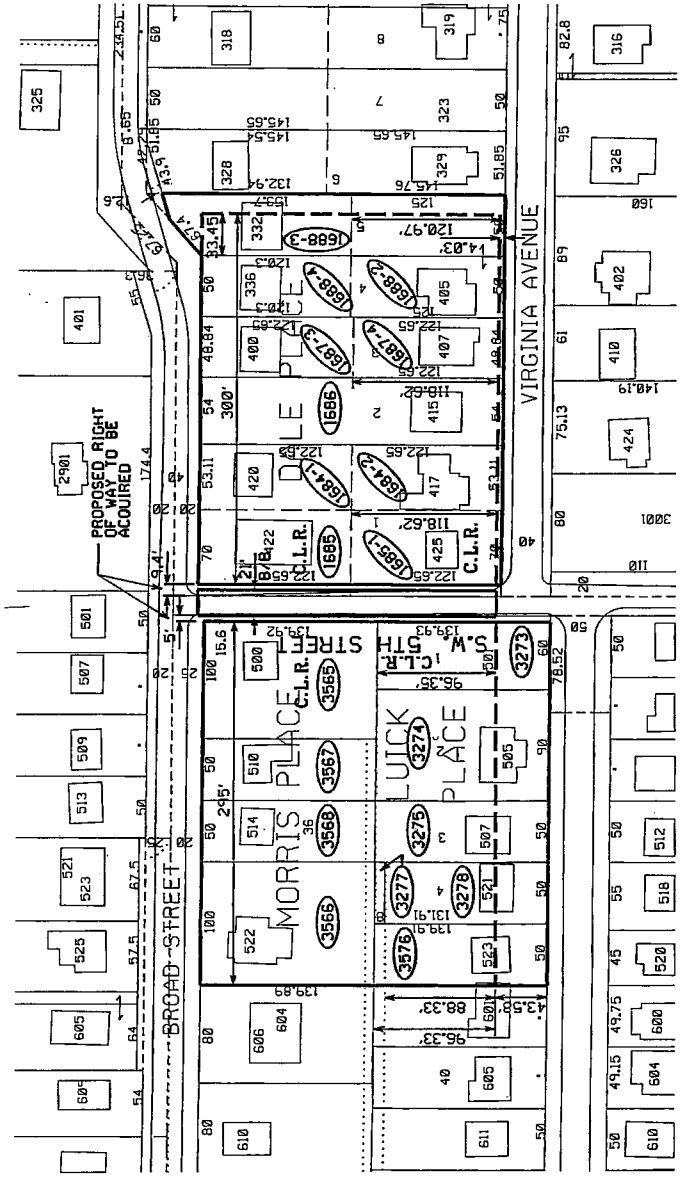
CERTIFICATE

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

DISTRICT 10

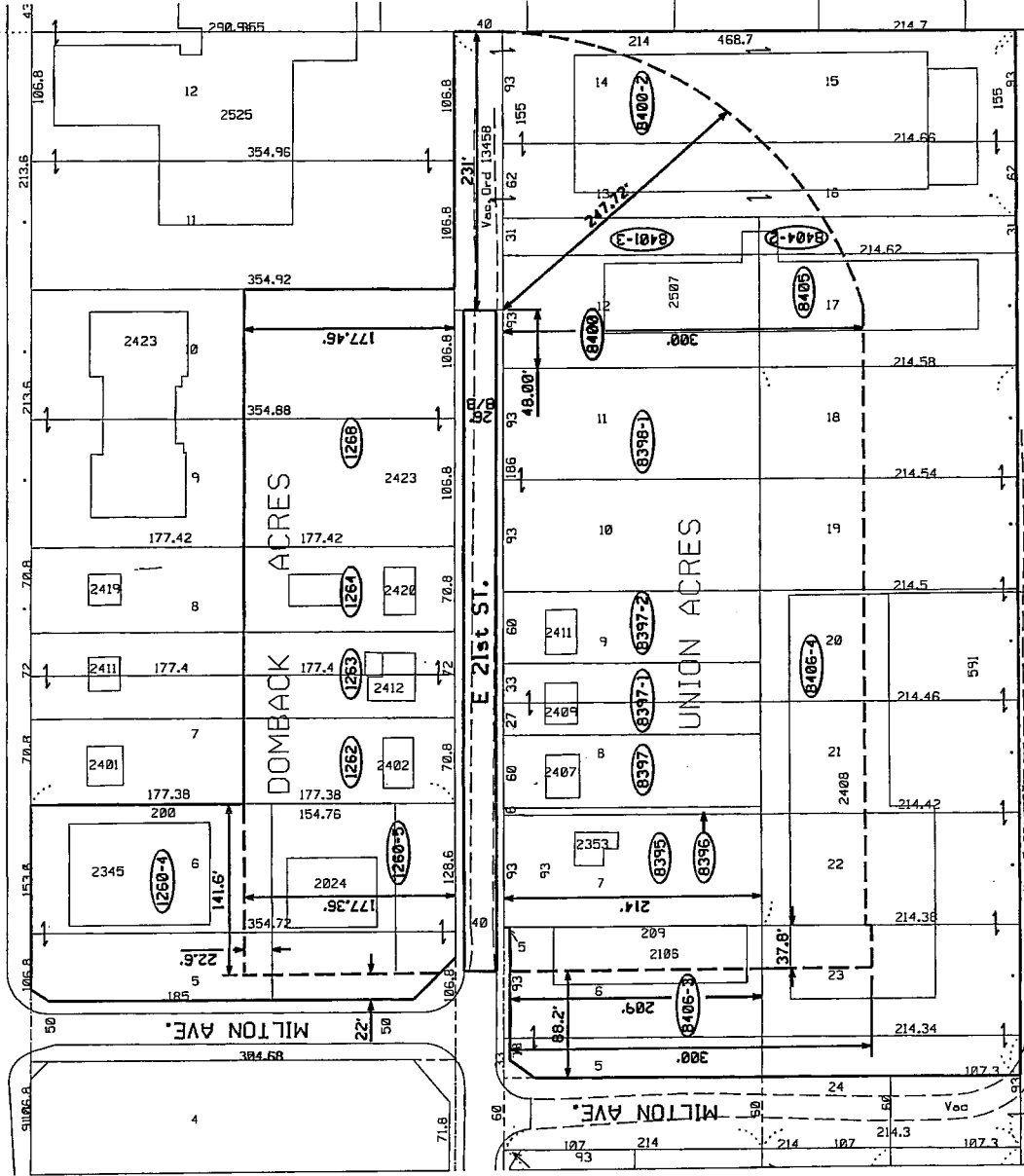


LEGEND

- ASSESSMENT BOUNDARY
- AREA CALCULATION LINE
- CORNER LOT REDUCTION
- LOT LINE
- OWNERSHIP LINE
- EXISTING PAVEMENT
- PROPOSED PAVEMENT
- PARCEL
- C.L.R.
- XXX-XX

2007-08 PAVING PROGRAM
 SW 5TH ST. - BROAD ST. TO VIRGINIA AVE.
 ACTIVITY I.D. 06-2008-011

DISTRICT 6
DELAWARE AVE.

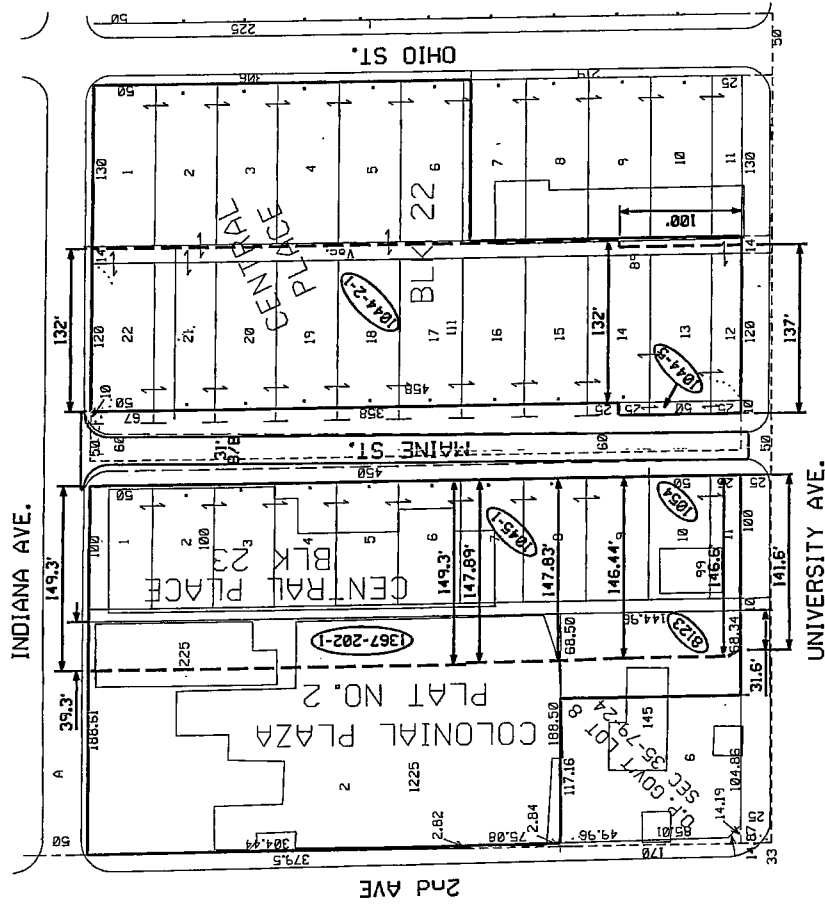


LEGEND

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

2007-08 PAVING PROGRAM
E. 21st ST. - MILTON AVE. TO DEAD END NORTH
ACTIVITY I.D. 06-2008-012

DISTRICT 8



- LEGEND**
- ASSESSMENT BOUNDARY
 - - - AREA CALCULATION LINE
 - C.L.R.
 - LOT LINE
 - OWNERSHIP LINE
 - EXISTING PAVEMENT
 - PROPOSED PAVEMENT
 - ⊖ PARCEL

2007-08 PAVING PROGRAM
 MAINE ST. - UNIVERSITY AVE. TO INDIANA AVE.
 ACTIVITY I.D. 06-2008-013

SCHEDULE OF AMENDMENTS TO THE PROPOSED RESOLUTION OF NECESSITY
FOR STREET IMPROVEMENTS, FEBRUARY 25, 2008

The Proposed Resolution of Necessity for Street Improvements, February 25, 2008, is amended as follows:

A. By eliminating therefrom the proposed improvements with location following to-wit:

B. By making changes in the preliminary plat and schedule of assessments as follows, to-wit:

C. By amending said Resolution of Necessity, as follows, to-wit:

I certify that the foregoing schedule lists all amendments to the Resolution of Necessity as adopted by the Council.

City Clerk

CERTIFICATE OF THE CLERK OF THE CITY OF DES MOINES, IOWA
TO BE FILED, INCLUDING EXHIBITS ATTACHED, WITH THE COUNTY TREASURER
OF POLK COUNTY, IOWA, AFTER ADOPTION OF THE RESOLUTION OF NECESSITY

STATE OF IOWA)
COUNTY OF POLK) SS
CITY OF DES MOINES)

NOTICE OF PENDING ASSESSMENT PROCEEDINGS

I, Diane Rauh, Clerk of the City of Des Moines, Iowa, do hereby certify that the Council of Des Moines, Iowa, has adopted a Resolution of Necessity for certain street improvements, said improvements being generally designated in said resolution and in prior proceedings of the Council as follows:

- Street paving twenty-one (21) 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, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6” thick PCC or 8” thick HMA.)

A true copy of said Resolution of Necessity as originally proposed and Resolution with respect to the adoption of the Resolution of Necessity proposed for said improvements, are hereby attached, marked Exhibits (1) and (2).

I further certify that attached hereto, marked Exhibit (3) and (4) are true and correct copies of the preliminary plat and schedule of assessments, said schedule setting out the estimated assessments proposed to be against benefited properties for the purpose of paying a portion of the total overall cost of said improvements. Said assessments are a lien upon the benefited properties from the date of filing a certified copy of the Resolution of Necessity, the plat and the schedule of assessments, as provided in 384.65 (5) of the Code of Iowa.

(SEAL)

Clerk of Des Moines, Iowa

I hereby certify that on the _____ day of _____, 2008, there was filed with me as County Treasurer of Polk County, State of Iowa, pursuant to 384.51 and 384.65 (5) of the Code of Iowa, an executed copy of the certificate of the Clerk of Des Moines, Iowa, as hereinabove set out, and a copy of the items therein referred to as Exhibits (1), (2), (3) and (4).

Witness my hand and the County Seal at Des Moines, Iowa, this _____ day of _____, 2008.

County Treasurer

I hereby certify that on the _____ day of _____, 2008, there was filed with me as Permit and Development Administrator and Building Official of the City of Des Moines, Iowa, an executed copy of the certificate of the City of Des Moines, Iowa, hereinabove set out, and a copy of the items therein referred to as Exhibits (1), (2), (3) and (4).

Permit and Development Administrator and
Building Official of the City of Des Moines, Iowa

SPECIAL ASSEMENT CERTIFICATE WITH RESPECT TO CLAIMS
FOR DEFERMENT OF ASSESSMENT ON AGRICULTURAL LAND

The undersigned, City Clerk of the City of Des Moines, Iowa, hereby certifies that the following owners of benefited property for the improvements described as:

- Street paving twenty-one (21) 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, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.

- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6” thick PCC or 8” thick HMA.)

filed written request for deferment of their assessment with the City Clerk at the time of the hearing on the Resolution of Necessity for the project or within ten days thereafter:

PARCEL NO.

OWNER

TOTAL ASSESSMENT

No tract of land listed above is of less than one-quarter acre surrounding any dwelling or nonfarm structure on that tract.

I further certify that attached to this certificate are copies of all requests for deferment filed.

Witness my hand and seal of said City hereto affixed this ____ day of _____, 2008.

City Clerk

R038 NOTICE TO PROPERTY OWNERS OF HEARING AND SETTING DATE OF HEARING AS FEBRUARY 25, 2008

Notice is hereby given that there is now on file for public inspection in the office of the Clerk of the City of Des Moines, Iowa, a proposed Resolution of Necessity, an estimate of costs and plat and schedule showing the amounts proposed to be assessed against each lot and the valuation thereof within each individual district as approved by the Council of Des Moines, Iowa, for sidewalk improvements described as:

- Street paving twenty-one (21) 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, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
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That each district to be benefited and subject to assessment for the cost of improvement is described as follows:

All properties, any part of which is included within the areas located along the streets or alley to be improved and generally described so as to include one-half of the privately owned and assessable property between each street or alley to be improved and the next street, as is more particularly shown on the assessment plat on file in the City Clerk's Office. In no case shall property entirely situated more than 300 feet from the street or alley to be improved be assessed.

The Council will meet at 5:00 o'clock P.M. on February 25, 2008, at the Council Chambers, City Hall, Des Moines, Iowa, at which time the owners of property subject to assessment for each proposed improvement, or any other person having an interest in the matter may appear and be heard for or against the making of each improvement, the boundaries of each district, the cost, the assessment against any lot, tract or parcel of land, or the final adoption of a Resolution of Necessity. A property owner will be deemed to have waived all objections unless at the time of Hearing the property owner has filed objections with the Clerk.

IF ANY QUESTIONS ON THIS ASSESSMENT, PLEASE CALL 283-4748.

Published in the Des Moines Register February 6 & 13, 2008

The Des Moines Register

AFFIDAVIT OF PUBLICATION

F ADVERTISEMENT
Exhibit "A"

STATE OF IOWA

SS

COUNTY OF POLK

The undersigned, being first duly sworn on oath, states that she/he is the

Accounting Specialist Kristi Morris

of The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

THE DES MOINES REGISTER (Daily)

DES MOINES SUNDAY REGISTER

newspapers of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an advertisement, a printed copy of which is attached as Exhibit "A" and made a part of this affidavit, was printed and published in The Des Moines Register (daily) on the following dates

Feb 6, Feb 13 2008

Subscribed and sworn to before me by said affiant this 13 day of February

2008.

Susan Hazelton
Notary Public in and for Polk County, Iowa

SUSAN HAZELTON
Notarial Seal - Iowa
Commission # 223823
My Commission Expires 8-10-08

PO 6045; \$101.56

