

.....  
Date April 23, 2007  
.....

RESOLUTION APPROVING VOLUNTARY ANNEXATION OF TERRITORY  
IN UNINCORPORATED POLK COUNTY AND APPROVING AGREEMENT  
FOR FUTURE CONTRIBUTION TO STREET IMPROVEMENTS  
(Mid-America Real Estate Co.)

WHEREAS, on December 4, 2006, by Roll Call No. 06-2376, the City Council resolved that the accompanying Application for Voluntary Annexation from Mid-America Investment Co., and Mid-America Real Estate Co., both represented by Teresa Wahlert, President, and from NW 77 JV, an Iowa general partnership represented by Alan Rivers, seeking the voluntary annexation by the City of Des Moines of approximately 217 acres (the "Property") in the vicinity of 3930 SE 72nd Avenue (E. Pine Avenue), together with portions of the adjoining rights-of-way, all as generally shown on the map attached hereto as Exhibit "A" and as more specifically described below, be set down for consideration by the City Council at a public hearing to be held in the Council Chambers on January 22, 2007, at 5:00 p.m.; and,

WHEREAS, notice of the proposed annexation was given to the Polk County Board of Supervisors and to the Allen Township Board of Trustees by letter of November 13, 2006, and they were invited to a consultation meeting with City staff held at 1:15 pm., on November 27, 2006, in the Kofu Conference Room at City Hall, to discuss the proposed annexation; and,

WHEREAS, neither the county nor township sent a representative to the consultation meeting; and,

WHEREAS, due notice of the public hearing was published in the Des Moines Register on December 21, 2006, as provided by law, setting forth the time and place for hearing on said proposed annexation; and,

WHEREAS, the required mailing of notice did not timely occur to allow the hearing to be held on January 22, 2007, as originally planned, and on January 22, 2007, by Roll Call No. 07-167, the public hearing was continued until February 12, 2007, at 5:00 p.m., to allow the required mailing of notice to occur; and,

WHEREAS, due notice of the public hearing to be held on February 12, 2007, was sent by certified or regular mail on January 16, 2006, to all affected utilities, to all other cities located within two miles of the Property, to the Polk County Board of Supervisors and County Attorney, and to all applicants and owners of land included in and adjoining the territory proposed to be annexed as required by Sections 368.5 and 368.7 of the Iowa Code; and,

( continued )

Date..... April 23, 2007

WHEREAS, on February 12, 2007, by Roll Call No. 07-283, on February 26, 2007 by Roll Call No. 07-397, and on March 26, 2007, by Roll Call No. 07-582, the City Council continued the public hearing on the proposed annexation until April 23, 2007, at 5:00 p.m. at the request of the current sole owner of the Property, Mid-America Real Estate Co., to allow time for it to meet with the City staff to address a number of issues related to the annexation; and,

WHEREAS, in accordance with the published and mailed notice, those interested in the annexation, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the territory proposed to be annexed adjoins the boundaries of the City of Des Moines; is not within the boundaries of any city; and, is located within two miles of the boundaries of the cities of Pleasant Hill and Carlisle; and,

WHEREAS, the City Staff have negotiated an Agreement with Mid-America Group, LTD, the parent corporation of Mid-America Real Estate Co., whereby Mid-America agrees to pay one-half the cost for a future traffic signal at the principal entrance into the Property from E. Army Post Road (SE 64th Street) if constructed within 5 years after 50% or more of the Property has been platted into lots for development, in exchange for a commitment by the City to limit Mid-America's obligation for future improvements to the existing adjoining streets to adding a 12 foot wide lane and a 6 foot wide shoulder to the south side of the adjoining portion of E. Army Post Road; 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, statements of interested persons and arguments of counsel, the objections to the proposed annexation and Agreement are hereby overruled and the hearing is closed.
2. The Agreement for future contribution to street improvements with Mid-America Group, LTD, is hereby approved. The Mayor is hereby authorized and directed to sign the Agreement on behalf of the City of Des Moines and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the document.
3. The annexation of the territory generally shown on the map attached hereto as Exhibit "A" and more specifically described as follows is hereby found to be consistent with the City's long range plans for the area, and is hereby approved:

The Northwest 1/4 and a part of the West 1/2 of the Northeast 1/4 of Section 32, Township 78 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa all of which being more particularly described as Parcel "E", as shown by the Plat of

Date..... April 23, 2007

Survey Recorded on January 17, 2002, in Book 9085, at Page 537, in the office of the Polk County Recorder.

AND, a portion of 64th Avenue SE (E. Army Post Road) more specifically described as follows: The entire right-of-way of 64th Avenue SE extending East from the current city boundary of the City of Des Moines, Iowa, to a line located 872.29 feet East of and parallel to the North/South centerline of Sections 29 and 32, Township 78 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa.

AND, a portion of 72nd Avenue SE (E. Pine Avenue) more specifically described as follows: The north portion of the right-of-way of 72nd Avenue SE extending to the centerline of the road, located in the West 1/2 of Section 32, Township 78 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa, and located in the West 358.00 feet of the East 1/2 of said Section 32.

AND, a portion of SE 45th Street more specifically described as follows: The West portion of the right-of-way of SE 45th Street extending to the centerline of the road, located in the South 1026.52 feet of the North 1/2 of the Northeast 1/4 of Section 32, Township 78 North, Range 23 West of the 5<sup>th</sup> P.M., Polk County, Iowa, and located in the North 469.02 feet of the South 1/2 of the Northeast 1/4 of said Section 32.

4. If the applicants do not withdraw their application within five business days of this date, the City Clerk is hereby authorized and directed to then: i) forward a certified copy of this resolution and accompanying exhibits to the Legal Department for filing with the City Development Board; and ii) cause the Agreement to be recorded in the land records of the Polk County Recorder.

5. Pursuant to Iowa Code §§ 368.7, 368.11(13) and 427B.3, the following percentages of the value of the property within the territory hereby annexed shall be exempt from the imposition of City of Des Moines taxes:

- i) For the 1st year, seventy-five percent.
- ii) For the 2nd year, sixty percent.
- iii) For the 3rd year, forty-five percent.
- iv) For the 4th year, thirty percent.
- v) For the 5th year, fifteen percent.

( continued )

★ Roll Call Number

Agenda Item Number

54 A

Date April 23, 2007

-4-

6. The City Legal Department is hereby authorized and directed to seek approval of this voluntary annexation, in its entirety and each part thereof, by the City Development Board in accordance with the procedures established in Iowa Code Chapter 368.

(Council Communication No. 07-239)

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

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown  
Assistant City Attorney

C:\rog\annex\individual Voluntary\mid-Am\RC Hrg.doc

Attachments:

- Exhibit "A" - Maps of entire Territory to be annexed
- Exhibit "1" - Application for Voluntary Annexation
- Exhibit "2" - Affidavit of Publication
- Exhibit "3" - Certificate of Mailing
- Exhibit "4" - Auditor's Annexation Review
- Exhibit "B" - Agreement (for future contribution to street improvements)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

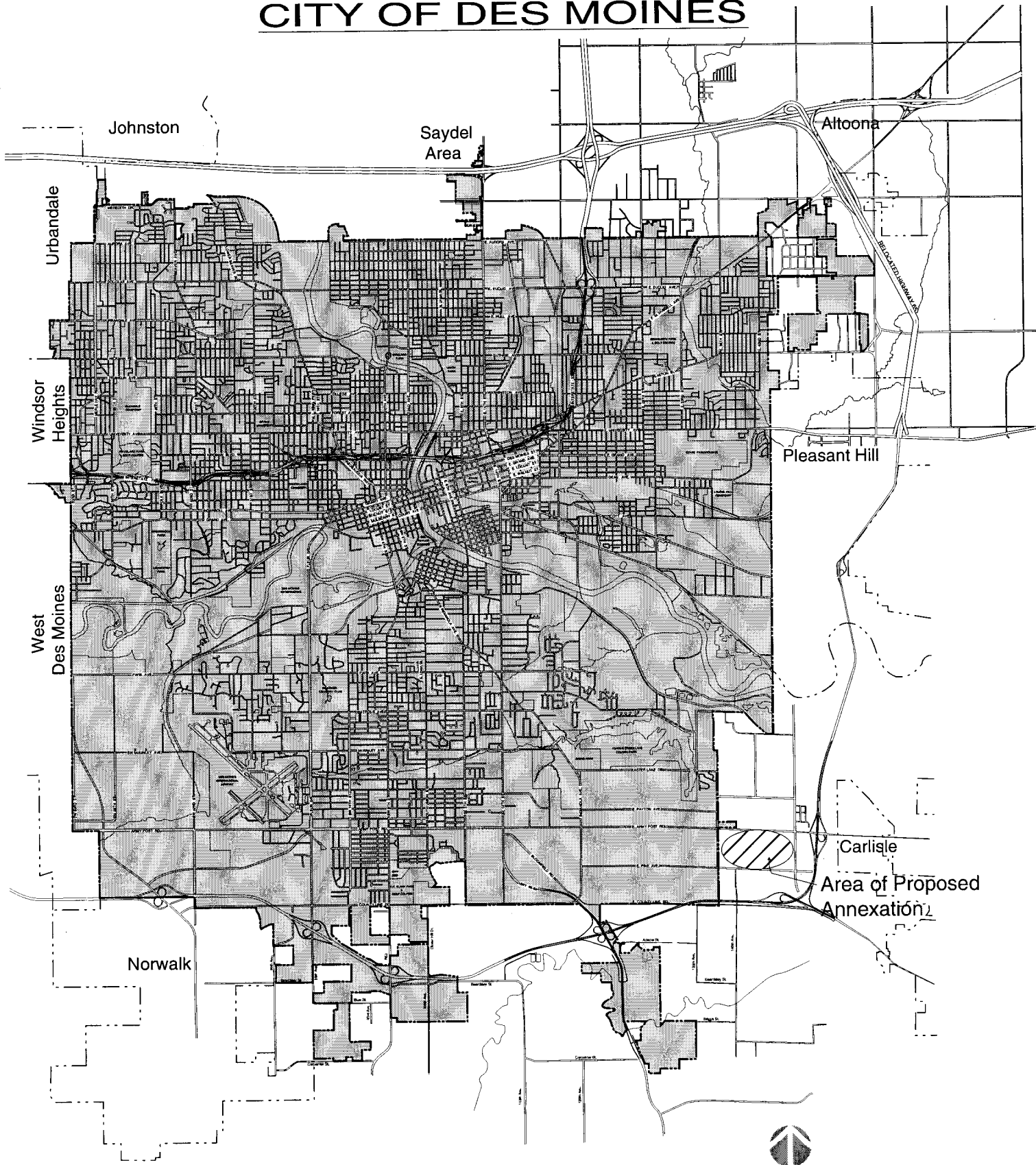
I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

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

City Clerk

# Exhibit "A-L"

## CITY OF DES MOINES



54 A

# Exhibit "A-2"

RE: Application for Voluntary Annexation of land filed by Mid-America Investment Co., Mid-America Real Estate Co., and NW 77 JV, an Iowa general partnership, seeking the voluntary annexation by the City of Des Moines of approximately 217 acres in the vicinity of 3930 SE 72nd Avenue (E. Pine Avenue), together with portions of the adjoining roads as generally shown below

