

.....
Date May 22, 2006
.....

RESOLUTION APPROVING VOLUNTARY ANNEXATION
OF TERRITORY IN UNINCORPORATED WARREN COUNTY
(Reuter Corporation)

WHEREAS, on April 10, 2006, by Roll Call No. 06-631, the City Council resolved that the Application for Voluntary Annexation from Reuter Corp., represented by Todd H. Rueter, President, seeking the voluntary annexation by the City of Des Moines of approximately 36 acres of land it owns in Warren County located south of Iowa Highway 5 and west of County Highway R63, as generally shown on the maps 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 May 22, 2006, at 5:00 p.m.; and,

WHEREAS, notice of the proposed annexation was given to the Warren County Board of Supervisors, to the Warren County Zoning Administrator and to the Greenfield Township Board of Trustees by letter of March 22, 2006, and they were invited to a consultation meeting with City staff held at 1:15 p.m., on April 4, 2006, in the Kofu Conference Room at City Hall, to discuss the proposed annexation; and,

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

WHEREAS, due notice of the hearing was sent by certified or regular mail on April 26, 2006, to all affected utilities, to all other cities located within two miles of the Property, to the Warren County Board of Supervisors and County Attorney, and to all applicants and owners of land adjoining the territory proposed to be annexed as required by Sections 368.5 and 368.7 of the Iowa Code; and,

WHEREAS, due notice of the public hearing was published in the Indianola Record Herald & Tribune on April 26, 2006, as provided by law, setting forth the time and place for hearing on said proposed 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 City of Norwalk; NOW THEREFORE,

(continued)

Date..... May 22, 2006

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 said annexation are hereby overruled and the hearing is closed.

2. The Application for Voluntary Annexation from Reuter Corp., seeking the voluntary annexation by the City of Des Moines of approximately 36 acres of land it owns in Warren County located south of Iowa Highway 5 and west of County Highway R63, as generally shown on the maps attached hereto as Exhibit "A" and more specifically as follows, is hereby approved:

Parcels No. 05360000070 and 05362000080

All of Lot 8 of Harbert's Subdivision in the Northwest 1/4 of the Northwest 1/4 and a part of Lot 7 in the Auditor's Plat of Harbert's Subdivision in the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, more specifically described as follows:

Beginning at the Northwest corner of said Lot 8; thence South 01° (degrees) 18' (minutes) 28" (seconds) West 683.00 feet on the West line of said Lot 8 to the Southwest corner of said Lot 8; thence North 89°56'07" East 1321.58 feet along the South line of said Lot 8 to the Southeast corner of said Lot 8; thence North 00°22'59" East 52.22 feet along the East line of said Lot 8 to the Southwest corner of said Lot 7; thence North 89°46'36" East 776.12 feet along the South line of said Lot 7; thence South 62°41'32" East 539.32 feet along the South line of said Lot 7; thence North 05°58'48" West 667.59 feet; thence North 89°58'35" West 367.89 feet; thence North 60°44'39" West 410.79 feet to a point on the North line of said Lot 7; thence North 89°48'39" West 455.35 feet to the Northwest corner of said Lot 7, also being the Northeast corner of said Lot 8; thence North 89°41'16" West 1310.52 feet along the North line of said Lot 8 to the Point of Beginning, containing 36.29 acres, more or less.

AND, all the adjoining right-of-way of County Highway R63 not previously annexed into the City of Des Moines; and, all the adjoining portion of Iowa Highway 5 located in the Northeast 1/4 of the Northwest 1/4 of Section 9, Township 77 North, Range 24 West of the 5th P.M., in Warren County, Iowa.

(continued)

Date May 22, 2006

-3-

- After 5 business days and unless the Application for Voluntary Annexation is withdrawn by Reuter Corp., within that time, the City Clerk is hereby authorized and directed to forward a certified copy of this resolution and the accompanying exhibits to the City Legal Department and the Legal Department is hereby authorized and directed to then 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. 06- 281)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

C:\Rog\Annex\Warren Voluntary\Rueter\RC Hrg.doc

Exhibits:

- "1" - Application for Voluntary Annexation
- "A-1" - Metro Map
- "A-2" - Map of the Territory to be Annexed
- "B" - Certificate of Mailing
- "C" - Affidavit of Publication
- "D" - Letter from Warren Co. Auditor

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLAŠSIS				
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

Rueter Corp.
Application for Voluntary Annexation

To: City Council
City of Des Moines, Iowa
400 East First Street
Des Moines, Iowa 50309

Re: Parcels No. 05360000070 and 05362000080

All of Lot 8 of Harbert's Subdivision in the Northwest 1/4 of the Northwest 1/4 and a part of Lot 7 in the Auditor's Plat of Harbert's Subdivision in the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, more specifically described as follows:

Beginning at the Northwest corner of said Lot 8; thence South 01° (degrees) 18' (minutes) 28" (seconds) West 683.00 feet on the West line of said Lot 8 to the Southwest corner of said Lot 8; thence North 89°56'07" East 1321.58 feet along the South line of said Lot 8 to the Southeast corner of said Lot 8; thence North 00°22'59" East 52.22 feet along the East line of said Lot 8 to the Southwest corner of said Lot 7; thence North 89°46'36" East 776.12 feet along the South line of said Lot 7; thence South 62°41'32" East 539.32 feet along the South line of said Lot 7; thence North 05°58'48" West 667.59 feet; thence North 89°58'35" West 367.89 feet; thence North 60°44'39" West 410.79 feet to a point on the North line of said Lot 7; thence North 89°48'39" West 455.35 feet to the Northwest corner of said Lot 7, also being the Northeast corner of said Lot 8; thence North 89°41'16" West 1310.52 feet along the North line of said Lot 8 to the Point of Beginning, containing 36.29 acres, more or less.

Rueter Corp., an Iowa corporation, hereby states as follows:

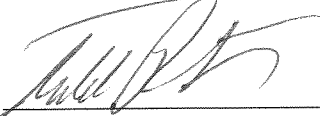
1. Rueter Corp., is the sole owner of the Property described above, exclusive of public rights-of-way and easements of record. Such Property is shown by the Plat of Survey recorded as an exhibit to the deed filed on February 12, 2004, in Book 2004, commencing at Page 1455, in the land records of the Polk County Recorder, a copy of which is attached hereto as Exhibit "A".
2. Rueter Corp., hereby makes application to the City of Des Moines, Iowa, to annex the Property to permit the Property to be developed for residential and/or commercial uses at urban densities with city services.

- 3. This application is subject to the City of Des Moines agreeing that the City shall not forward the application to the City Development Board or otherwise cause the annexation to become final and effective, until after the fifth business day after the application has been approved by the Des Moines City Council, and that this application may be withdrawn by Rueter Corp., at any time within the five business days after the application has been approved by the City Council, if Rueter Corp., is not satisfied with the conditions upon which the Property is being annexed.
- 4. No business is currently providing solid waste collection services (garbage pickup) to the Property.
- 5. *(Check one line)*
 No use on the Property receives public water service from any source.
 Public water service is currently being provided to a use on the Property by:

(Insert name and address of water service provider.)

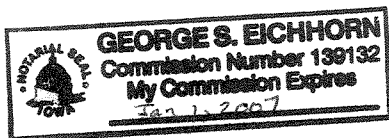
Date: March 17, 2006


Rueter Corp.,
an Iowa corporation

By: 
Todd H. Rueter, President

State of Iowa)
) ss:
County of Polk)

On this 17th day of March, 2006, before me, a notary public, personally appeared **Todd H. Rueter**, to me personally known, who being by me duly sworn did say that he is the President of **Rueter Corp.**, an Iowa corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its board of directors, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it voluntarily executed.




Notary Public in the State of Iowa
My commission expires: 1/1/2007

IOWA DEPARTMENT OF TRANSPORTATION

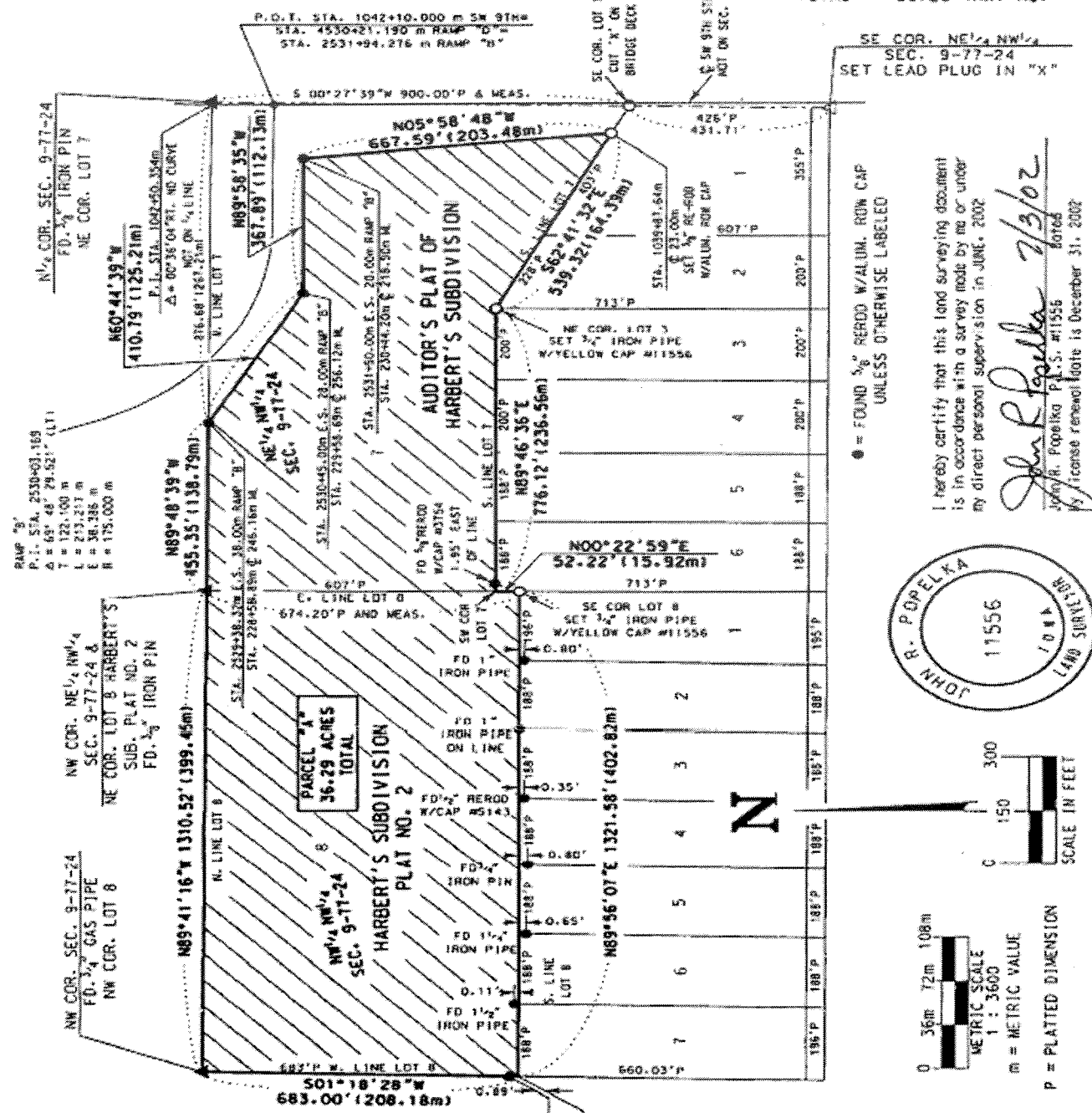
PLAT OF SURVEY
EXHIBIT "A"



COUNTY WARREN STATE CONTROL NO. _____
 PROJECT NO. NHSN-500-11731--2R-91 PARCEL NO. 418
 SECTION 9 TOWNSHIP 77N RANGE 24W
 ROW - FEE 9 AC. EASE _____ AC. EXCESS - FEE 36.29 AC
 ACQUIRED FROM FRANKLIN D. HOLM

SOLD TO: _____
 COUNTY AUDITOR PARCEL DESIGNATION "A"

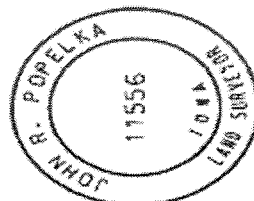
*EXCESS
 LOT 7 = 15.79 TAX. AC.
 LOT 8 = 20.50 TAX. AC.
 TOTAL = 36.29 TAX. AC.



● = FOUND 3/8\" REROD W/ALUM. ROD CAP UNLESS OTHERWISE LABELED

I hereby certify that this land surveying document is in accordance with a survey made by me or under my direct personal supervision in JUNE, 2002

John R. Popelka 7/3/02
 John R. Popelka P.L.S. #11556
 My license renewal date is December 31, 2002



DATE DRAWN 7/2/02 jcc

Exhibit "A-1"

CITY OF DES MOINES

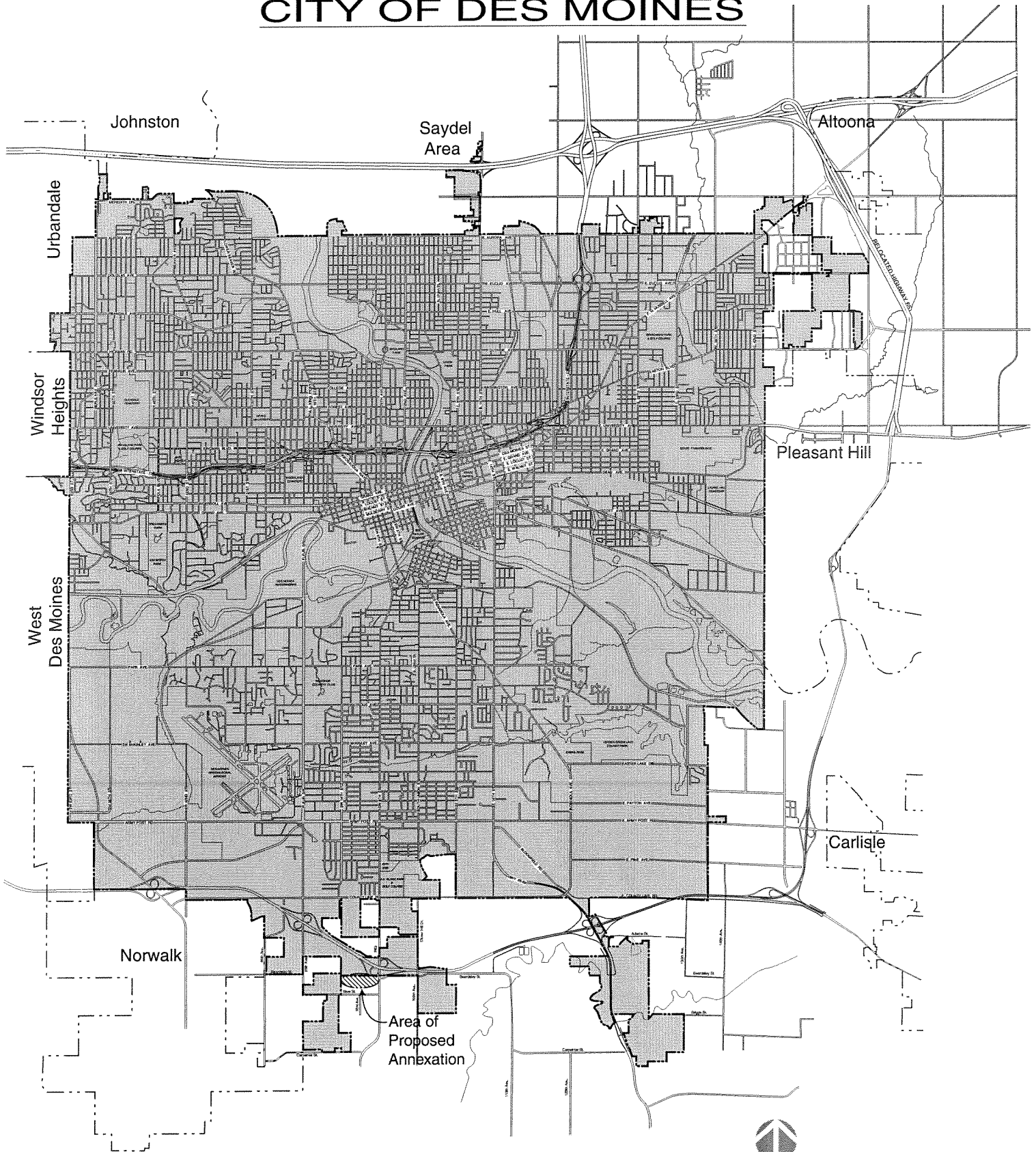


Exhibit "A-2"
Territory Proposed to be Annexed

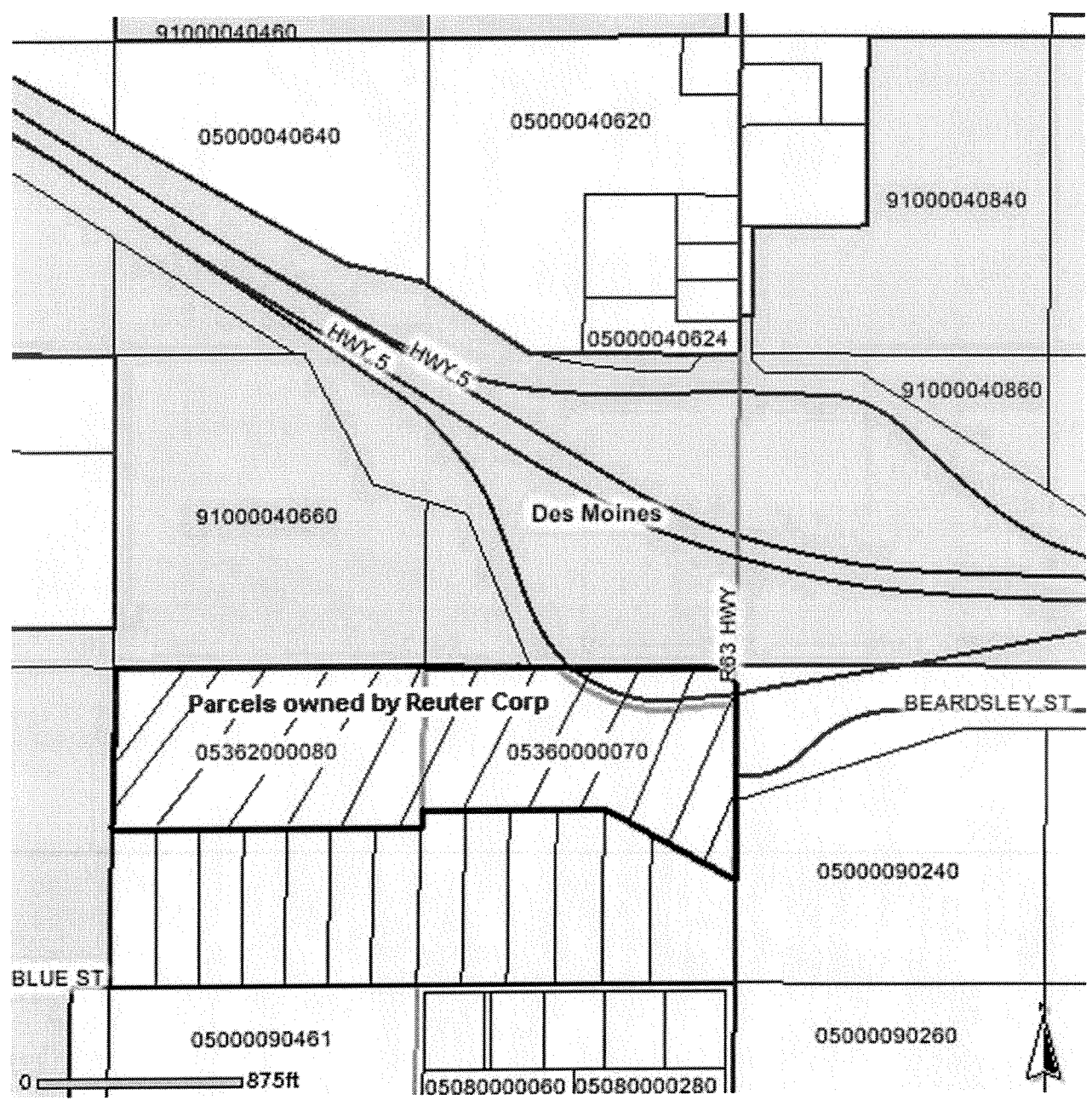


Exhibit "B"

CERTIFICATE OF MAILING NOTICE OF VOLUNTARY ANNEXATION

RE: The Application for Voluntary Annexation filed by Rueter Corporation requesting that the City of Des Moines, Iowa, voluntarily annex approximately 36 acres of land it owns in unincorporated Warren County west of County Highway R63 and south of Iowa Highway 5, together with portions of the adjoining public rights-of-way.

The undersigned, Roger K. Brown, hereby certifies that a true copy of the attached Notice of Hearing, together with a copy of the application for voluntary annexation containing a map and legal description of the area proposed to be annexed, were served upon the following by certified mail, return receipt requested, in an envelope addressed to each at the address shown below, with postage fully paid, and by depositing same in a United States Post Office depository in Des Moines, Iowa, on April 26, 2006:

Affected Utilities:

MidAmerican Energy Company
Paul J. Leighton, Registered Agent
666Grand Avenue
Des Moines, Iowa 50306

Mr. Randy Beavers
Des Moines Water Works
Engineering Department
2201 Valley Drive
Des Moines, Iowa 50321

Attn: Chad Ernst
Mediacom
2205 Ingersoll Avenue
Des Moines, Iowa 50312

Qwest Corporation
CT Corporation System, Resident Agent
2222 Grand Avenue
Des Moines, Iowa 50312

Other Governmental Entities:

Warren County Bd of Supervisors
301 N. Buxton
Indianola, Iowa 50125

Warren County Attorney
Warren County Courthouse
Indianola, Iowa 50125

Attorney General Tom Miller
Hoover Building
1305 E. Walnut Street
Des Moines, Iowa 50319

Iowa Department of Transportation
Mark Wandro, Director
800 Lincoln Way
Ames, Iowa 50010

Norwalk City Council
705 North Ave.
Norwalk, Iowa 50211

The undersigned, Roger K. Brown, hereby further certifies that a true copy of the attached Notice of Hearing, together with a copy of the application for voluntary annexation containing a map and legal description of the area proposed to be annexed, were served upon the following by regular mail, in an envelope addressed to each at the address shown below, with postage fully paid, and by depositing same in a United States Post Office depository in Des Moines, Iowa, on April 26, 2006:

Other governmental entities:

Chair- Board of Supervisors
Warren County Courthouse
301 N. Buxton, Suite 202
Indianola, Iowa 50125

Warren County Attorney
Warren County Courthouse
Indianola, Iowa 50125

Attn: Mahala Cox
Warren Co. Emergency Management
PO Box 337
Indianola, Iowa 50125

Affected Utilities:

MidAmerican Energy Company
Paul J. Leighton, Registered Agent
666 Grand Avenue
Des Moines, Iowa 50306

Mr. Randy Beavers
Des Moines Water Works
Engineering Department
2201 Valley Drive
Des Moines, Iowa 50321

Attn: Chad Ernst
Mediacom
2205 Ingersoll Avenue
Des Moines, Iowa 50312

Qwest Corporation
CT Corporation System, Resident Agent
2222 Grand Avenue
Des Moines, Iowa 50312

Owners of territory to be annexed:

Rueter Corp
1006 E Main
Grand Junction, IA 50107

Owners of adjoining properties:

State of Iowa ROW Office
800 Lincoln Way
Ames, IA 50010

Lemar Koethe
2832 104th St Ste 201
Urbandale, IA 50322

Josephine M. Jones
9461 Blue St
Norwalk, IA 50211

Jerry G. and Zoe A. Behrens
9433 Blue St
Norwalk, IA 50211

James C. Shelly
9411 Blue St
Norwalk, IA 50211

John and Cindy O'Hara
9385 Blue St
Norwalk, IA 50211

Thomas C. and Helen A. Rush
9339 Blue St
Norwalk, IA 50211

Edwin L. and Gloria K. Holland
9325 Blue St
Norwalk, IA 50211

Catherine J. Carson-Labuschagne
9251 Blue St
Norwalk, IA 50211

William E. and Julie Ann Harbert
9209 Blue St
Norwalk, IA 50211

Louise Harbert
9167 Blue St
Norwalk, IA 50211


Raymond Elliott Jr & Linda Ann Phillips
9005 Blue St
Norwalk, IA 50211

James E. and Teresa S. O'Connor
9127 Blue St
Norwalk, IA 50211

Gerald and John R Grubb Inc.
3301 106th Circle
Urbandale, IA 50322

Keith D. Lukenbill
9081 Blue St
Norwalk, IA 50211

Signed this 26th day of April, 2006.


Roger K. Brown, Assistant City Attorney
City of Des Moines – Legal Department
400 Robert D. Ray Drive
Des Moines, Iowa 50309-1881
(515) 283-4541

NOTICE OF HEARING ON VOLUNTARY ANNEXATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines has received an application from Todd H. Rueter, as President of Rueter Corp., seeking the voluntary annexation by the City of Des Moines of approximately 36 acres of land it owns in Warren County located west of County Highway R63 and south of Iowa Highway 5. The entire territory proposed to be annexed is more specifically described as follows:

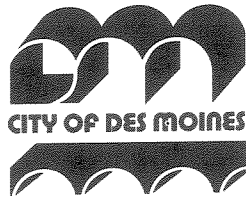
All of Lot 8 of Harbert's Subdivision in the Northwest 1/4 of the Northwest 1/4 and a part of Lot 7 in the Auditor's Plat of Harbert's Subdivision in the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, more specifically described as follows:

Beginning at the Northwest corner of said Lot 8; thence South 01° (degrees) 18' (minutes) 28" (seconds) West 683.00 feet on the West line of said Lot 8 to the Southwest corner of said Lot 8; thence North 89°56'07" East 1321.58 feet along the South line of said Lot 8 to the Southeast corner of said Lot 8; thence North 00°22'59" East 52.22 feet along the East line of said Lot 8 to the Southwest corner of said Lot 7; thence North 89°46'36" East 776.12 feet along the South line of said Lot 7; thence South 62°41'32" East 539.32 feet along the South line of said Lot 7; thence North 05°58'48" West 667.59 feet; thence North 89°58'35" West 367.89 feet; thence North 60°44'39" West 410.79 feet to a point on the North line of said Lot 7; thence North 89°48'39" West 455.35 feet to the Northwest corner of said Lot 7, also being the Northeast corner of said Lot 8; thence North 89°41'16" West 1310.52 feet along the North line of said Lot 8 to the Point of Beginning, containing 36.29 acres, more or less.

AND, all the adjoining right-of-way of County Highway R63 not previously annexed into the City of Des Moines; and, all the adjoining portion of Iowa Highway 5 located in the Northeast 1/4 of the Northwest 1/4 of Section 9, Township 77 North, Range 24 West of the 5th P.M., in Warren County, Iowa.

NOTICE IS FURTHER GIVEN that the City Council will consider the application and approval of the proposed annexation after a public hearing to be held at 5:00 p.m., in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, on May 22, 2006. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

A copy of the Application for Voluntary Annexation and a map of the affected territory are enclosed for your reference.



LEGAL DEPARTMENT
CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IA 50309-1891
(515) 283-4130 Administration
(515) 283-4564 Litigation
FAX (515) 237-1643 Administration
(515) 237-1748 Litigation

ALL-AMERICA CITY
1949, 1976, 1981
2003

CITY ATTORNEY
BRUCE E. BERGMAN

DEPUTY CITY ATTORNEYS
MARK GODWIN
LAWRENCE R. McDOWELL
KATHLEEN VANDERPOOL

ASSISTANT CITY ATTORNEYS
ROGER K. BROWN
EMILY GOULD CHAFA
THOMAS J. CLARKE, JR.
ANN M. DIDONATO
MICHAEL F. KELLEY
MARY A. LAUGHLIN
VICKY L. LONG HILL
SUSAN A. LOW
STEVEN C. LUSSIER
KATHARINE J. MASSIER
CAROL J. MOSER
DOUGLAS P. PHILIPH

Notice of Hearing on Voluntary Annexation
page 2

The only property proposed to be annexed by this action is that owned by the applicant, Rueter Corp., and portions of the adjoining county road and state highway. No other property is proposed to be annexed by this action.

If you have any questions about this proposed annexation please contact me at the number below.

Sincerely,



Roger K. Brown,
Assistant City Attorney
515/283-4541

enc: Application for Voluntary Annexation
Map of Territory Proposed for Annexation

AFFIDAVIT OF PUBLICATION

Exhibit "C"

STATE OF IOWA
WARREN COUNTY

NOTICE OF HEARING ON VOLUNTARY ANNEXATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines has received an application from Todd H. Ruetter, as President of Ruetter Corp., seeking the voluntary annexation by the City of Des Moines of approximately 36 acres of land it owns in Warren County located west of County Highway R63 and south of Iowa Highway 5. The entire territory proposed to be annexed is more specifically described as follows:

All of Lot 8 of Harbert's Subdivision in the Northwest 1/4 of the Northwest 1/4 and a part of Lot 7 in the Auditor's Plat of Harbert's Subdivision in the Northeast 1/4 of the Northwest 1/4, all in Section 9, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, more specifically described as follows:

Beginning at the Northwest corner of said Lot 8; thence South 01 (degrees) 18 (minutes) 28 (seconds) West 683.00 feet on the West line of said Lot 8 to the Southwest corner of said Lot 8; thence North 89°56'07" East 1321.58 feet along the South line of said Lot 8 to the Southeast corner of said Lot 8; thence North 00°22'59" East 52.22 feet along the East line of said Lot 8 to the Southwest corner of said Lot 7; thence North 89°46'36" East 776.12 feet along the South line of said Lot 7; thence South 62°41'32" East 539.32 feet along the South line of said Lot 7; thence North 03°58'48" West 667.59 feet; thence North 89°58'35" West 367.89 feet; thence North 60°44'39" West 410.79 feet to a point on the North line of said Lot 7; thence North 89°48'39" West 455.35 feet to the Northwest corner of said Lot 7, also being the Northeast corner of said Lot 8; thence North 89°41'16" West 1310.52 feet along the North line of said Lot 8 to the Point of Beginning, containing 36.29 acres, more or less.

AND, all the adjoining right-of-way of County Highway R63 not previously annexed into the City of Des Moines; and, all the adjoining portion of Iowa Highway 5 located in the Northeast 1/4 of the Northwest 1/4 of Section 9, Township 77 North, Range 24 West of the 5th P.M. in Warren County, Iowa.

NOTICE IS FURTHER GIVEN that the City Council will consider the application and approval of the proposed annexation after a public hearing to be held at 5:00 p.m., in the Council Chambers at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, on May 22, 2006. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

A copy of the Application for Voluntary Annexation and a map of the affected territory are available for public inspection at the office of the City Clerk, City Hall, Des Moines, Iowa.

Amy Duncan, being sworn, says she is the publisher of The Indianola Record Herald & Tribune a weekly newspaper of general circulation, published in Indianola, Warren, County, Iowa.

That the notice, a printed copy of which is attached hereto and made part of hereof, was published in the said Indianola Record Herald & Tribune once each week for 1 week, the first publication being on the 26th day of April, 20 06; the second being on the ___ day of ___, 20 ___; the third being on the ___ of ___, 20 ___; the fourth being on the ___ day of ___, 20 ___; and the last being on the ___ day of ___, 20 ___.

Amy K. Duncan

Subscribed and sworn to by Amy Duncan before me on this 26th day of April, 20 06.

Amy Feisel

Notary Public
Publication fee \$44.29

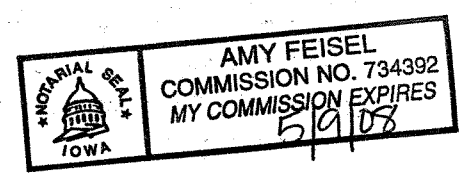


Exhibit "D"

WARREN COUNTY AUDITOR
301 N. Buxton, Suite 101, Indianola, Iowa 50125

Telephone (515) 961-1020
Fax (515) 961-1049

TRACI VANDERLINDEN
Auditor & Commissioner
Of Elections

RKB
RECEIVED

May 11, 2006

MAY 16 2006

Roger K. Brown
Assistant City Attorney
Legal Department – City Hall
400 Robert D Ray Dr
Des Moines, IA 50309

Dear Roger K. Brown,

Thank you for mailing us your proposed voluntary annexation for verification, before this annexation is recorded in Warren County.

While reviewing your proposed annexation, I find the legal description contains an error. Our records indicate Lot 8 Harbert's Subdivision Plat 2, not Lot 8 Harbert's Subdivision.

If I can be of any further assistance please feel free to call me at 515-961-1021.

Sincerely,



Rhonda Green
Deputy Auditor