

Date December 5, 2011

RESOLUTION APPROVING VOLUNTARY ANNEXATION
OF TERRITORY IN UNINCORPORATED POLK COUNTY AT
5055 NE 38th AVENUE

WHEREAS, on October 10, 2011, by Roll Call No. 11-1709, the City Council resolved that the accompanying Application for Voluntary Annexation from Darwin and Karen Hook, seeking the voluntary annexation by the City of Des Moines of their home at 5055 NE 38th Avenue, together with portions of the adjoining rights-of-way, all as generally shown on the maps attached hereto as Exhibit "A-1" and "A-2", 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 December 5, 2011, at 5:00 p.m.; and,

WHEREAS, Darwin and Karen Hook have requested that their home at 5055 NE 38th Avenue be annexed to allow their home to be connected to the public sanitary sewer system; and,

WHEREAS, on October 10, 2011, by Roll Call No. 11-1709, the City Council also approved an Agreement and Covenant with Darwin and Karen Hook allowing them to immediately connect their home to the City's public sewer system in anticipation of the completion of this annexation; and,

WHEREAS, notice of the proposed annexation was given to the Polk County Board of Supervisors and to the Delaware Township Board of Trustees by letter of October 13, 2011, and they were invited to a consultation meeting with City staff held at 1:00 p.m., on October 19, 2011, in the Stavropol Conference Room at City Hall, to discuss the proposed annexation; and,

WHEREAS, no one attended the consultation meeting on behalf of the Polk County Board of Supervisors or the Saylor Township Board of Trustees; and,

WHEREAS, due notice of the public hearing was sent by certified or regular mail on November 9, 2011, 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,

WHEREAS, due notice of the public hearing was also published in the Des Moines Register on November 9, 2011, 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,

(continued)

Date December 5, 2011

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WHEREAS, the real estate proposed to be annexed adjoins the boundaries of the City of Des Moines and is within two miles of the boundaries of the cities of Pleasant Hill and Altoona; 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 are hereby overruled and the hearing is closed.
2. The annexation of the real estate generally shown on the maps attached hereto as Exhibit "A-1" and "A-2", and more specifically described below, is hereby found to be consistent with the City's long range plans for the area, and is hereby approved:

District/Parcel No.: 190/00434-001-000 and 060/09027-926-001

Legal: A parcel of land located in the Northwest Quarter of Section 27, Township 79 North, Range 23 West of the 5th P.M., Polk County, Iowa, that is more particularly described as follows:

Commencing as a point of reference at the North Quarter corner of said Section 27; thence N 89°35'10" W, 138.75 feet along the North line of said Section 27 to the Point of Beginning; thence S 00°24'50"W, 212.82 feet to a Point; thence N 89°36'13" W, 157.27 feet to a Point; thence N 00°30'32" E, 212.87 feet to a Point on said North Line of Section 27; thence S 89°35'10" E, 156.92 feet along said North Line of said Section 27 to the Point of Beginning and containing 0.768 acres more or less. (As conveyed by Quit Claim Deed at Book 12204, Page 635.)

AND all the adjoining portion of NE 38th Avenue right-of-way not previously annexed into the City of Des Moines, Iowa.

3. The City Clerk is hereby authorized and directed to forward a certified copy of this resolution and accompanying exhibits to the Legal Department for filing with the City Development Board.
4. 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.

(continued)



Roll Call Number

Agenda Item Number

43

Date December 5, 2011

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(Council Communication No. 11- 741)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

Exhibits:

- "A-1" - Vicinity Map
- "A-2" - Map of the Territory to be Annexed
- "B" - Application for Voluntary Annexation
- "C" - Certificate of Mailing
- "D" - Affidavit of Publication
- "E" - Annexation Review by Polk County Auditor

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
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.

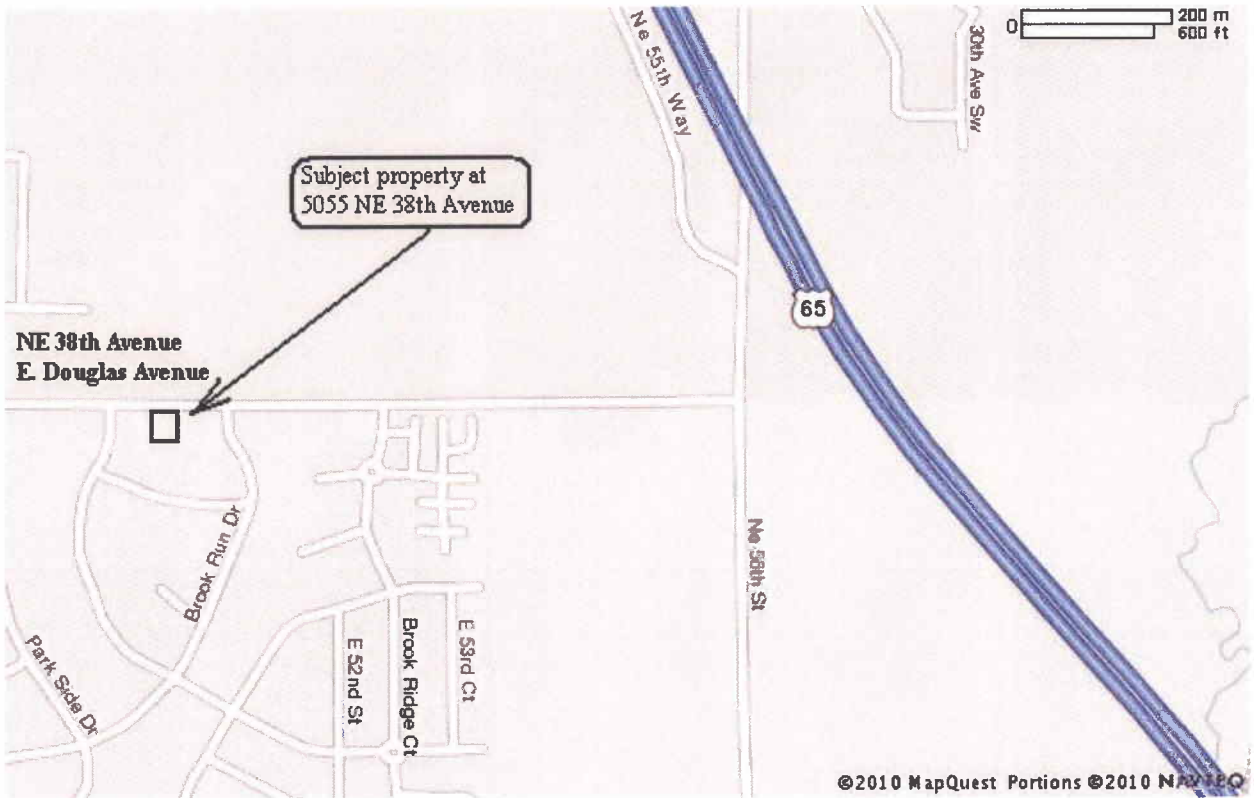
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ Mayor

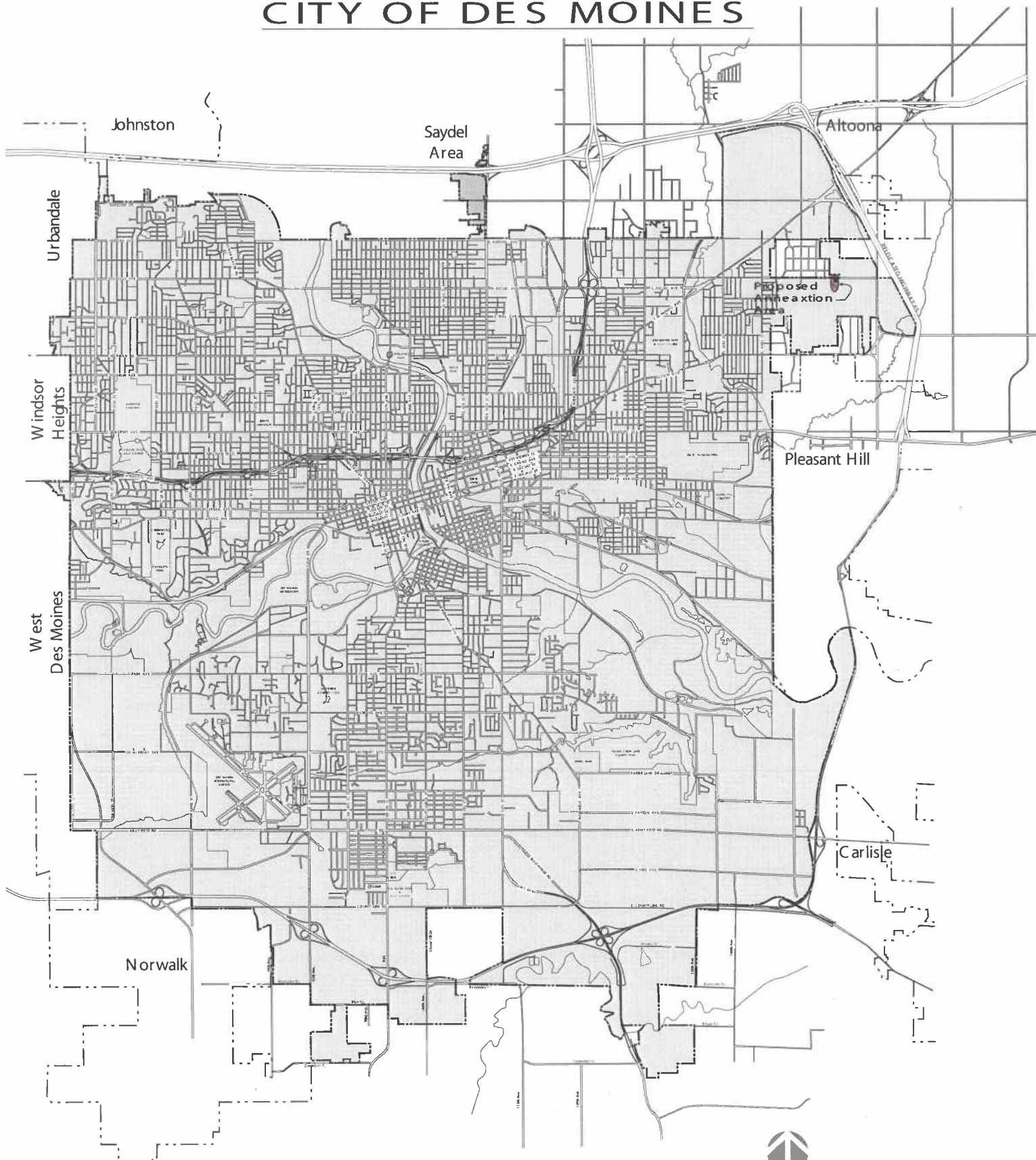
_____ City Clerk

Exhibit "A"

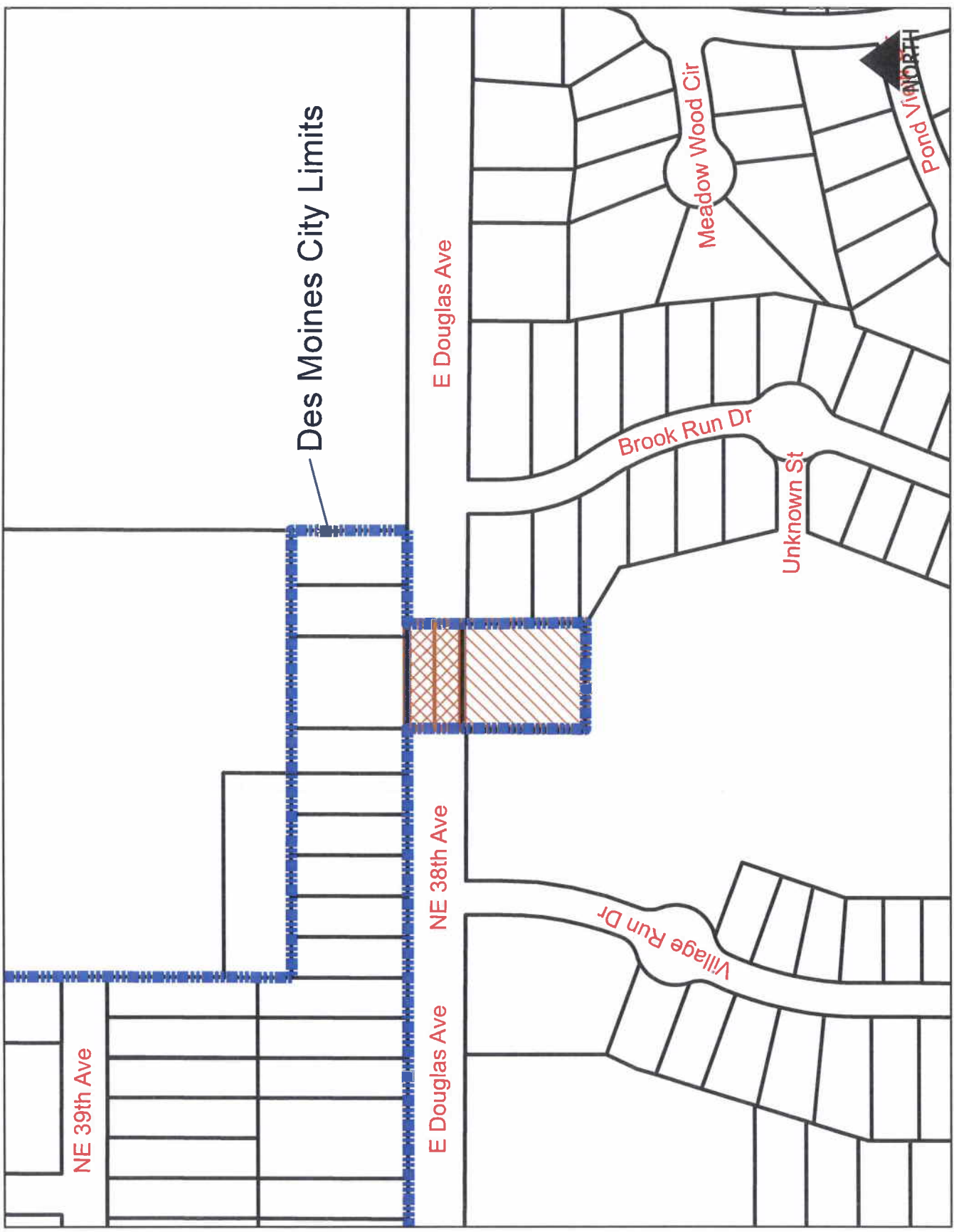
Map of the real estate to be annexed



CITY OF DES MOINES



Darwin & Karen Hook Voluntary Annexation - 5055 NE 38th Avenue



Application for Voluntary Annexation
(Darwin and Karen Hook)

To: City Council
City of Des Moines, Iowa
400 Robert D. Ray Drive
Des Moines, Iowa 50309

Re: Voluntary annexation of the following tract in Delaware Township, Polk County, hereinafter referred to as the "Territory":

Address: 5055 NE 38th Street, Des Moines, Iowa
District/Parcel No.: 190/00434-001-000

Legal:

A parcel of land located in the Northwest Quarter of Section 27, Township 79 North, Range 23 West of the 5th P.M., Polk County, Iowa, that is more particularly described as follows:

Commencing as a point of reference at the North Quarter corner of said Section 27; thence N 89°35'10" W, 138.75 feet along the North line of said Section 27 to the Point of Beginning; thence S 00°24'50"W, 212.82 feet to a Point; thence N 89°36'13" W, 157.27 feet to a Point; thence N 00°30'32" E, 212.87 feet to a Point on said North Line of Section 27; thence S 89°35'10" E, 156.92 feet along said North Line of said Section 27 to the Point of Beginning and containing 0.768 acres more or less.

Darwin L. Hook and Karen M. Hook, husband and wife, hereby make application to the City of Des Moines, Iowa, to annex the real estate described above which is generally shown on the map attached hereto as Exhibit "A". In support of this application we represent and state that we are the sole owners of the real estate described above, exclusive of road right-of-way, and seek to have the real estate annexed into the City of Des Moines.

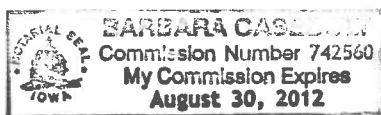
Date: 10/5, 2011

Darwin L. Hook
Darwin L. Hook

Karen M. Hook
Karen M. Hook

State of Iowa) ss:
County of Polk)

This instrument was signed and acknowledged before me on October 05, 2011, by **Darwin L. Hook and Karen M. Hook.**



Barbara Caslow
Notary Public in the State of Iowa
My commission expires: 08-30-12

CERTIFICATE OF MAILING NOTICE OF VOLUNTARY ANNEXATION

RE: The Application for Voluntary Annexation filed by Darwin and Karen Hook

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 November 9, 2011:

Affected Utilities:

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

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

Solid Waste Collection Services:

BFI Waste Systems
4705 N.E. 22nd Street
Des Moines, Iowa 50313

Waste Management of Iowa
201 S.E. 18th Street
Des Moines, Iowa 50317

Other Governmental Entities:

Polk County Bd of Supervisors
Polk County Administration Building
111 Court Avenue, Room 300
Des Moines, Iowa 50309

John Sarcone
Polk County Attorney
Midland Building
206 Sixth Avenue
Des Moines, Iowa 50309

Altoona City Council
408 - 8th Street SE
Altoona, Iowa 50009

Pleasant Hill City Council
5160 Maple Drive, Suite A
Pleasant Hill, Iowa 50327

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 November 9, 2011:

Other governmental entities:

Polk County Bd of Supervisors
Polk County Administration Building
111 Court Avenue, Room 300
Des Moines, Iowa 50309

John Sarcone
Polk County Attorney
Midland Building
206 Sixth Avenue
Des Moines, Iowa 50309

Polk County, Secondary Roads
5885 NE 14th Street
Des Moines, IA 50313-1202

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

Applicants for Voluntary Annexation:

Darwin & Karen Hook
5055 NE 38th Avenue
Des Moines, IA 50317

Owners of adjoining properties:

Central Iowa Developers, LC
3501 Westown Parkway
West Des Moines, IA 50266-1007

Russell & Angela Swieter,
5050 NE 38th Avenue
Des Moines, IA 50317-8036


Joshua & Amy Smith,
and Rebecca Grissom
3750 Brook Run Drive
Des Moines, IA 50317-5122

Matthew L. Freiberg
3742 Brook Run Drive
Des Moines, IA 50317-5122

Alex And Linda Tollari Rev Trust
1825 Industrial Circle
West Des Moines, IA 50265-5557

Brook Run Parks Homeowners Assoc
% Conlin Properties, Inc.
319 7th Street, Suite 500
Des Moines, IA 50309

Signed this 9th day of November, 2011.


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

