CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Annexation Agreement - Proposed Annexation Moratorium and Subdivision Review Agreement between the City of West Des Moines and the City of Waukee **DATE:** November 1, 2021

RESOLUTION: Approval of Annexation Moratorium and Subdivision Review Agreement

FINANCIAL IMPACT: None

BACKGROUND: On August 28, 2006, the City of West Des Moines and the City of Waukee entered into an Annexation Moratorium and Subdivision Review Agreement (Agreement) establishing potential boundaries where each city would be able to grow and develop. The Agreement had a maximum term by State Law of 10-years, and it expired in 2016. Since that time there has not been an Agreement in place.

Staff has been working with representatives of the City of Waukee to draft a new Agreement. That process has now been concluded and the proposed map of the new annexation line is attached as Attachment I, Exhibit A.

The most significant change to the previously approved boundary line is west of the Dallas County Highway R-22. The City of Waukee has annexed a large section of the area therefore rendering our claim to the area in future agreements with Waukee moot. In addition, the Napa Valley area is shown as an area where neither city can annex land in that development unless there is a water or sewer issue and 80% of the land ownership has sign applications requesting annexation.

The City of Waukee approved the Agreement at their Public Hearing on November 1, 2021. The Agreement does not go into effect until it is approved by both City Councils and filed with the City Development Board.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Adoption of the resolution approving the Annexation Moratorium and Subdivision Review Agreement with the City of Waukee.

Lead Staff Member: Clyde Evans, AICP, Director

STAFF REVIEWS:

Department Director	Clyde Evans, Community and Economic Development Director
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	September 24, 2021	
Letter sent to surrounding property owners		n/a

SUBCOMMITTEE REVIEW (if applicable)

Committee	Planning and Development		
Date Reviewed	March 1, 2021		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Attachment I -	Resolution
Exhibit A -	Notice of Public Hearing
Attachment II -	Annexation Moratorium Agreement
Exhibit A -	Map of Annexation Boundary Line

RESOLUTION APPROVING ANNEXATION MORATORIUM AND SUBDIVISION REVIEW AGREEMENT WITH THE CITY OF WAUKEE, IOWA

WHEREAS, representatives of the cities of West Des Moines and Waukee have negotiated the terms of an Annexation Moratorium and Subdivision Review Agreement ("Agreement") which establishes a defined boundary beyond which each city has agreed not to annex land for the ten year term of the Agreement; and

WHEREAS, the City of West Des Moines desires to affirm the terms and conditions and approve the Agreement with the City of Waukee for a ten-year term pursuant to Iowa Code §368.4; and

WHEREAS, in addition, the cities of West Des Moines and Waukee have each established their authority to exercise their right under Iowa Code §354.9 to review subdivision plats and plats of survey for divisions or subdivisions in the unincorporated area within two miles of each city's respective boundary; and

WHEREAS, each city desires to establish a boundary between the areas over which it exercises its extraterritorial jurisdiction to review subdivision plats and plats of survey, so that each city will review only those subdivision plats and plats of survey of land located within its planned future growth areas; and

WHEREAS, pursuant to Code of Iowa section 368.4, a notice containing a description of the annexation moratorium area and the date and time of this public hearing, attached hereto as Exhibit "A", has been made; and

WHEREAS, this being the time and place for a public hearing regarding approval of the Agreement; and

WHEREAS, the City Council of the City of West Des Moines, Iowa finds that approval of the Agreement is in the best interest of the City.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of West Des Moines, Iowa, as follows:

Pursuant to Code of Iowa section 368.4, publication of notice regarding approval of the Agreement has been properly made.

The public hearing regarding approval of the Agreement is hereby closed.

The proposed Agreement is hereby approved.

The Mayor is hereby authorized and directed to sign the Agreement and the City Clerk is directed to attest to the Mayor's signature.

Upon execution of the Agreement, the City Clerk shall forward one duplicate original to the City of Waukee for approval and execution, and upon full execution by both Cities, the City Clerk shall provide an original Agreement to the Office of Iowa Secretary of State and to the Office of the Dallas County Recorder for recording.

PASSED AND ADOPTED this 1st day of November 2021.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the City Councils of the cities of West Des Moines and Waukee will each hold public hearings to consider a proposed Annexation Moratorium Agreement ("Agreement") between the cities. The purpose of the Agreement is to allow Waukee and West Des Moines to plan for their orderly future growth and for the extension of public infrastructure necessary to serve that growth.The territory under discussion is the unincorporated area between the two cities. The Agreement, which will be in effect for ten years, would establish a line of demarcation between the two cities,which neither may cross through annexation.

Copies of the Agreement are available in the respective City Clerks' office.

The City Council of the City of Waukee, Iowa shall consider approval of the Agreement at a public hearing to be held at 5:30 p.m., on November 1, 2021, at the Council Chambers of the Waukee's City Hall, located at 230 Hickman Road, Waukee, Iowa.

The City Council of the City of West Des Moines will consider approval of the Agreement at a public hearing to be held at 5:35 p.m., on November 1, 2021, in the Council Chambers of the City of West Des Moines' City Hall, located at 4200 Mills Civic Parkway, West Des Moines, Iowa.

At the above designated times and places of the public hearing, persons may express their opinion on the proposed Annexation Moratorium Agreement. Opinions in writing may be submitted to the City Clerk's office within the respective city before the time of the public hearing. Comments may be submitted to the Community Development Department for the City of West Des Moines at PO Box 65320, West Des Moines, Iowa 50265-0320; or to the City of Waukee at 230 Hickman Road, Waukee, Iowa 50263.

It is the responsibility of the individual with a disability requiring accommodations to inform the City Clerk's Office, at least 48 hours in advance, that certain accommodations are requested to allow full participation in the City Council meeting. Please call 515-222-3603 for the City of West Moines, or 515-978-7904 for the City of Waukee to have accommodations provided.

CITY OF WAUKEE, IOWA, and
CITY OF WEST DES MOINES, IOWA

EXHIBIT II

ANNEXATION MORATORIUM AND SUBDIVISION REVIEW AGREEMENT PURSUANT TO IOWA CODE SECTIONS 368 AND 28E BETWEEN THE CITY OF WAUKEE, IOWA AND CITY OF WEST DES MOINES, IOWA

This Annexation Moratorium and Subdivision Review Agreement (hereinafter "Agreement") is made and entered into as of the ____ day of _____, 2021, by and between the **City of Waukee**, an Iowa municipal corporation (hereinafter "Waukee") and the **City of West Des Moines**, an Iowa municipal corporation (hereinafter "West Des Moines").

WHEREAS, it is in the public interest to provide for the orderly annexation of certain territory to Waukee, certain territory to West Des Moines, and to assure communication between the two cities so as to allow the best opportunity for orderly development of property, compatible uses, and coordinate public infrastructure along the common boundary to the maximum extent possible; and,

WHEREAS, pursuant to Iowa Code Chapter 368, the cities of Waukee and West Des Moines have negotiated the terms of this Agreement for the purpose of establishing boundaries wherein each city would agree that it would not annex land beyond the established boundaries for the ten-year term of the Agreement; and,

WHEREAS, in addition to the terms and conditions of the Agreement, and under the authority of Iowa Code Chapter 28E, the cities of Waukee and West Des Moines desire to establish a boundary between the areas over which each city will exercise its extraterritorial jurisdiction pursuant to Iowa Code §354.9 (2021) to review subdivision plats and plats of survey so that each city will review only those subdivision plats and plats of survey of land located within each city's areas of possible annexation pursuant to this Agreement; and,

WHEREAS, the cities of Waukee and West Des Moines have approved this Agreement after notice and public hearing as provided by Iowa Code §368.4 (2021).

NOW, THEREFORE, the parties to this Agreement hereby covenant and agree as follows:

ARTICLE 1. GENERAL

Section 1. Purpose.

A. The purpose of this Agreement is to allow the cities of Waukee and West Des Moines to each plan for its orderly future growth. By establishing a boundary for the future growth of each city, both cities can plan for the orderly future extension of public infrastructure and services to serve each city's future growth area. Without such an agreement, each city's investment of scarce resources in public infrastructure and services to planned future growth areas may be lost if the area planned to be served by such investment becomes part of the other city.

B. A further purpose of this Agreement is to provide for and avoid duplication in the review of plats and unincorporated land located within two miles or each city and relevant to this Agreement. It is the intent of the two cities that such plats be reviewed only by Dallas County and by the city, which may annex the subject area during the term of this Agreement as more particularly provided in Article 3.

Section 2. Term.

The term of this Agreement shall commence upon the date this Agreement is approved by the City Council of the City of Waukee, or the date this Agreement is approved by the City Council of the City of West Des Moines, whichever occurs later. This Agreement shall thereafter remain in full force and effect for a term of ten years from the date of its approval but may be amended or terminated prior to the expiration of the ten-year term upon mutual agreement of the cities.

Section 3. No Separate Legal Entity or Property Disposition.

No separate legal entity is created by this Agreement and no personal or real property shall be acquired by either city in regard to this Agreement.

Section 4. Administrator.

The Development Services Director of the City of Waukee shall be the Administrator of this Agreement.

ARTICLE 2. ANNEXATION MORATORIUM AGREEMENT

Section 1. Annexation Boundary Line.

The cities of Waukee and West Des Moines hereby agree upon and approve the establishment of an Annexation Boundary Line legally described as follows:

A LINE IN SECTIONS 8, 17, 19, 20, 29 AND 30 IN TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, DALLAS COUNTY, IOWA DELINEATES AN ANNEXATION MORATORIUM LINE BETWEEN THE CITIES OF WAUKEE, IOWA AND WEST DES MOINES IOWA. THIS LINE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A LINE COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF INTERSTATE 80 (I-80) AND COUNTY ROAD R-22 (UTE AVENUE);

THENCE SOUTH, ALONG THE CENTERLINE OF SAID COUNTY ROAD R-22 (UTE AVENUE TO THE CENTERLINE OF 335TH STREET, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH

PRINCIPAL MERIDIAN, DALLAS COUNTY, IOWA;

THENCE CONTINUING SOUTH ALONG THE WEST LINE OF SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SAID SECTION 17 TO THE SOUTHWEST CORNER OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SAID SECTION 17;

THENCE WEST ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SAID SECTION 17 TO THE CENTERLINE OF COUNTY ROAD R-22 (UTE AVENUE);

THENCE SOUTH ALONG THE CENTERLINE OF COUNTY ROAD R-22 (UTE AVENUE) TO THE CENTERLINE OF THE INTERSECTION OF COUNTY ROAD R-22 (UTE AVENUE) AND COUNTY ROAD F-90 (360TH STREET);

THENCE WESTERLY ALONG THE CENTERLINE OF COUNTY ROAD F-90 (360TH STREET) TO THE WEST LINE OF SECTION 30, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, DALLAS COUNTY, IOWA,

such Annexation Boundary Line being generally as shown on the map attached hereto as Exhibit "A".

Section 2. Annexation Limitations.

A. The city of Waukee agrees for the term of this Agreement to refrain from annexing any land, which is located east of the Annexation Boundary Line described above subject to the exception as described in in Section 2B below. The city of West Des Moines agrees for the term of this Agreement to refrain from annexing any land, which is located west of the Annexation Boundary Line described above.

B. The area defined as Napa Valley on the attached Exhibit A shall not be the subject to either a voluntary or involuntary annexation by either West Des Moines or Waukee during the life of this agreement. The exception to this provision shall be if a situation arises where because of a directive from the Dallas County Sanitarian or the Iowa Department of Natural Resources that requires the Napa Valley development to connect to a municipal sanitary sewer system; or because of either water supply or quality issues that are occurring where it is necessary for the Napa Valley development to connect to a municipal system. In those situations, upon petition by owners of 80% of the land area of the Napa Valley development either West Des Moines or Waukee can voluntarily annex the Napa Valley development. Said Napa Valley development is legally described as follows:

ALL OF NAPA VALLEY ESTATES PLAT 1, AN OFFICIAL PLAT, DALLAS COUNTY, IOWA; AND,

ALL OF NAPA VALLEY ESTATES PLAT 2; AN OFFICIAL PLAT, DALLAS COUNTY, IOWA; AND,

ALL OF NAPA VALLEY CREST, AN OFFICIAL PLAT, DALLAS COUNTY, IOWA; AND,

LOT 2 OF LARSON/VOTH SUBDIVISION, AN OFFICIAL PLAT, DALLAS COUNTY, IOWA; AND,

ALL OF BOONEVILLE CEMETERY BOUNDARY SURVEY AS RECORDED IN BOOK 8, PAGE 167, DALLAS COUNTY, IOWA.

C. Pursuant to Iowa Code §368.4 (2021) and succeeding legislation, the City Development Board shall dismiss any petition, plan or application for a boundary adjustment which would cause either city to annex land in violation of this section.

ARTICLE 3. REVIEW OF PLATS

Section 1. Plat Review Authority.

A. Subdivision plats and plats of survey for land located east of the Annexation Boundary Line in the portion of unincorporated Dallas County within two miles of the boundaries of the city of West Des Moines shall be subject to the extraterritorial jurisdiction of the city of West Des Moines pursuant to Iowa Code §354.9 (2021). The city of Waukee hereby waives all right to review and approve any subdivision plats and plats of survey within such area.

B. Subdivision plats and plats of survey for land located west of the Annexation Boundary Line in the portion of unincorporated Dallas County within two miles of the boundaries of the city of Waukee shall be subject to the extraterritorial jurisdiction of the city of Waukee pursuant to Iowa Code §354.9 (2021). The city of West Des Moines hereby waives all right to review and approve any subdivision plats and plats of survey within such area.

C. Both cities agree that they will use their best efforts to ensure that land uses in areas within their review jurisdiction and which are adjacent to the opposing city's corporate boundary or review jurisdiction are compatible with the opposing city's adjacent land uses.

ARTICLE 4. FILING AND RECORDING

Pursuant to Iowa Code §368.4 (2021), this Agreement and the Resolution approving the Agreement from each City shall be filed with the City Development Board within ten days of the later date of approval by the approving cities. Pursuant to Iowa Code §28E.8 (2021), this Agreement shall also be filed with the Iowa Secretary of State and recorded in the Office of the Dallas County Recorder.

IN WITNESS WHEREOF, the City of Waukee and the City of West Des Moines have caused this Agreement to be executed by their respective Mayors, with attestation by their respective City Clerks.

CITY OF WAUKEE, IOWA

ATTEST:

By:_____
Courtney Clarke, Mayor

By:_____
Rebecca D Schuett, City Clerk

STATE OF IOWA)
) SS
COUNTY OF DALLAS)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Courtney Clarke and Rebecca D. Schuett, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the **City of Waukee, Iowa,** a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the Council, as contained in the Resolution adopted by City Council under Resolution No. _____ passed by the City Council on the _____ day of _____, 2021, and that Courtney Clarke and Rebecca D. Schuett, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the City of Waukee, Iowa, by it and by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

CITY OF WEST DES MOINES, IOWA

ATTEST:

By:_____
Steven K. Gaer, Mayor

By:_____
Ryan T. Jacobson, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POLK)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the **City of West Des Moines, Iowa,** a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the Council, as contained in the Resolution adopted by City Council under Resolution No. _____ passed by the City Council on the _____ day of _____, 2021, and that Steven K. Gaer and Ryan T. Jacobson, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the City of West Des Moines, Iowa, by it and by them voluntarily executed.

_____
Notary Public in and for the State of Iowa
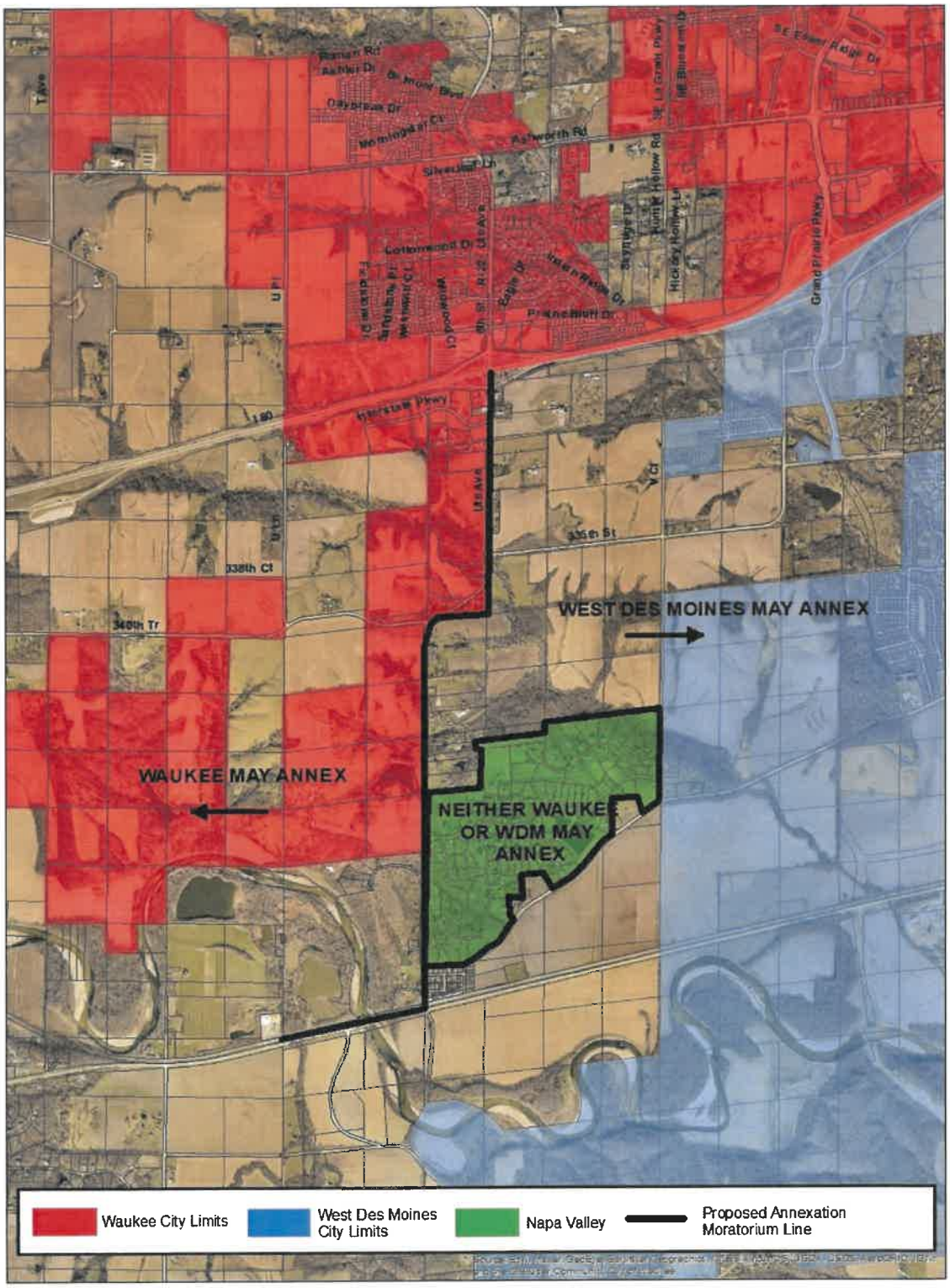
Exhibit A
Map of Annexation Boundary Line