

REC'D. BY FEB 22 1990
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JOINT RESOLUTION BETWEEN THE TOWN OF OAKPORT
AND THE CITY OF MOORHEAD DESIGNATING AN AREA
FOR ORDERLY ANNEXATION PURSUANT TO MINNESOTA
STATUTE SECTION 414.0325

(TRACT 1)

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BE IT RESOLVED by "Oakport," by and through its Board of Supervisors, and by "Moorhead," by and through its City Council, that Oakport and Moorhead do hereby jointly agree to the following:

1. Definitions

For the purposes of this Joint Resolution the following definitions mean:

a. Bikeway. Will mean a shared vehicular right-of-way designated as such by signs placed on vertical posts or stenciled on pavement

b. Bike/Pedestrian Path. Will mean a hard surface trail or path not to exceed ten (10) feet in width constructed and maintained by Moorhead within the bike/pedestrian easement.

c. Bike/Pedestrian Easement. Will mean the fifty (50) foot easement for the development of a bike/pedestrian path and for maintenance of the river bank.

d. County. Will mean the County of Clay, Minnesota, a body corporate and politic duly organized and existing under the laws of the State of Minnesota.

e. Effective Date of Annexation. Will mean the date the Minnesota Municipal Board issues its order approving the annexation contemplated in the Initiating Resolution.

f. Effective Date of This Joint Resolution. Will mean the date the Minnesota Municipal Board accepts this Joint Resolution for filing.

g. Initiating Resolution. Will mean an initiating resolution adopted by Moorhead and filed with the Minnesota Municipal Board.

h. Joint Resolution. Will mean this Joint Resolution between Oakport and Moorhead designating an area for orderly annexation pursuant to Minnesota Statute Section 414.0325.

i. Minnesota Municipal Board. Will mean the Minnesota Municipal Board, which is created by Minnesota Statute Section 414.01.

j. Moorhead. Will mean the City of Moorhead, Minnesota, a municipal corporation duly organized and existing under the laws of the State of Minnesota, except whenever in the provisions of this document reference is made to water or electrical services, then and in that case, "Moorhead" will include within its meaning both the City of Moorhead and the Moorhead Public Service Commission, a board to which the control, management and operation of all City water and electrical systems have been committed by Section 12.02 of the Moorhead City Charter.

k. Oakport. Will mean the Town of Oakport, a town duly organized and existing under the laws of the State of Minnesota.

l. Orderly Annexation Area. Will mean Tract 1.

m. Parcel. Will mean a part or portion of land recorded as property in the office of the Clay County Recorder.

n. Point of Water Distribution System Connection. Will mean the point to which Oakport will construct water main through Tract 1 to attach to the Moorhead water distribution system. Oakport will finance and construct water main to the point of connection as shown in Exhibit A. Moorhead will own water mains installed by Oakport from point of connection in Moorhead (through and including main in Tract 1) to Tract 2.

o. Point of Wastewater Collection System Connection. Will mean the point to which Oakport will construct main sewer line through Tract 1 to attach to the Moorhead wastewater collection system. Oakport will finance and construct main sewer line to the point of connection as shown in Exhibit B. Moorhead will own the main sewer line installed by Oakport from point of connection in Moorhead through and including main sewer line in Tract 1 to Tract 2.

p. Property Owner. Will mean the owner of a parcel(s) of property within the Orderly Annexation Area.

q. Service Area. Will mean exclusively, that portion of the Orderly Annexation Area referred to as Tract 1.

r. Single-Family Residential Lot. Will mean a parcel which is part of a subdivision, the map of which has been recorded in the office of the Clay County Recorder, or a parcel described by metes and bounds or otherwise described separately from adjacent real estate, the deed to which has been recorded in the office of the Clay County Recorder prior to January 1, 1989, the purpose of which will be the construction of a single family detached residential dwelling unit and directly related, complimentary uses thereto.

s. Tract 1. Will mean that area of Oakport legally described in Exhibit C, depicted in Exhibit E, and generally described as follows:

From the center of the Red River on the west to the centerline of U.S. Highway 75 on the east; and, from the existing City limits on the south to 43rd Avenue on the north, including the settlement ponds lying in the area east and west of U.S. Highway 75; but excluding the residential real estate presently owned by Palmer Nymark lying south and west of M.B. Johnson Park and excluding the Moorhead Rod and Gun Club and excluding the subdivision commonly referred to as Old Trail Estates and the unplatted property located east of Old Trail Estates and bounded on the east by Clay County Highway 96.

In the event of conflict between the legal description in Exhibit C and the above general description, the legal description in Exhibit C will control.

t. Tract 2. Will mean that area of Oakport legally described in Exhibit D, depicted in Exhibit E, and generally described as follows:

Generally, that portion of the developed area of Oakport lying south of the centerline of Clay County Road 93 and between Tracts 1 and 3 and the Red River which includes the Moorhead Rod and Gun Club and the residential real estate owned by Palmer Nymark lying south and west of M.B. Johnson Park.

In the event of conflict between the legal description in Exhibit D and the above general description, the legal description in Exhibit D will control.

u. Water Distribution System. Will mean a water distribution system including, but not limited to, the following: water mains, valves, hydrants, valve boxes, water storage facilities, telemetry system, and in addition, all appurtenances normal to a full water distribution system for domestic water use and fire protection.

v. Water Services. Will mean the pipe and fittings and devices needed to convey water from the water main to the point of entry in a premises and in addition to the above stated items consist of the following: corporation, tapping sleeves and valves, curb stop, curb boxes, gate valve boxes and meter stop valves.

w. Wastewater Collection System. Will mean a wastewater sewer collection system including, but not limited to the following: manholes, main sewer lines -- both gravity and force mains; wastewater lift stations including structure, pumps, motors, alarm systems, telemetry systems for monitoring, emergency generator electrical connections, and in addition to the above stated items all other applicable appurtenances normal to a wastewater sewer collection system.

x. Wastewater Services. Will mean the sewer pipes and fittings, devices, and structures and appurtenances thereto needed to collect wastewater from the point of entry in a premises to the main sewer line.

2. Reasons for Annexation

It is specifically found that:

a. Certain Properties Urban or Suburban. Certain properties within Oakport abutting upon Moorhead are presently urban or suburban in nature.

b. Compliance with State Law. Clay County has required compliance with County ordinances and State law regarding certification of septic systems.

c. Oakport Request for Services. Oakport has requested wastewater collection services for the Orderly Annexation Area.

d. Annexation Mandated by Moorhead. Moorhead has made orderly annexation pursuant to this Joint Resolution a condition precedent to providing wastewater collection services to the Orderly Annexation Area.

e. Moorhead Capable of Providing Services. Moorhead has provided or is capable of providing wastewater collection services and is capable of providing additional services to this property to adequately protect the public health, safety, and welfare of the properties.

3. Annexation Date/Taxes

All parcels within Tract 1 will be annexed to Moorhead upon the date the Minnesota Municipal Board issues its order approving the annexation of Tract 1 following the Board's acceptance of this Joint Resolution and based on Moorhead filing an Initiating Resolution with the Board. The tax rate of Moorhead will apply to Tract 1 of the orderly annexation area upon the effective date of annexation.

4. Zoning/Subdivision/Land Use Control Regulations

Upon the effective date of annexation, Tract 1 will be zoned and regulated as T-Z, Transition Zone, or such other zoning classification as may be deemed appropriate by Moorhead under its zoning ordinance as such ordinance may be amended, modified or replaced from time to time. Land use control and subdivision regulations over Tract 1 will be vested with Moorhead upon the effective date of annexation of Tract 1 and Tract 1 will be governed by Moorhead's comprehensive land use plan and subdivision regulations as such plan and regulations may be amended, modified or replaced from time to time.

5. Building Regulations

Upon the effective date of annexation, the power to regulate building, issue building permits, collect fees, and require compliance with applicable engineering standards for Tract 1 will be vested with Moorhead. Any construction within Tract 1 following the effective date of annexation of Tract 1 will be required to meet all Moorhead and State building, electrical, plumbing and fire codes.

6. Wastewater Collection System/Wastewater Treatment Service

Oakport will construct a wastewater collection system, a portion of which will be located within Tract 1 in accordance with the following:

a. Compliance with Moorhead's Specifications. The wastewater collection system will be designed and installed to current Moorhead specifications for underground improvements, be certified by a professional engineer as meeting Moorhead specifications, and be approved by Moorhead's City Engineer.

b. Moorhead's Right to Verify/Inspect. During the installation of the wastewater collection system, Moorhead has the right to verify compliance with Moorhead specifications. To ensure same, Moorhead will, at its expense through its Public Works Department or designee, inspect the wastewater collection system or any portion thereof throughout its installation. Moorhead reserves the right to assess the costs of any such expense for inspection in accordance with Minnesota Statutes Chapter 429.

c. Moorhead's Final Acceptance/"As Built" Plans. Moorhead's final acceptance of the wastewater collection system or any portion thereof from Oakport is conditional upon receipt from Oakport's consulting engineer of a certificate of compliance with Moorhead's specifications satisfactory to Moorhead. Prior to final acceptance of the system or any portion thereof by Moorhead, a complete set of

reproduceable "as built" plans for Oakport's wastewater collection system or any portion thereof must be provided Moorhead with the cost of the plans to be paid by Oakport.

d. Moorhead's Financial Contribution. Oakport and Moorhead mutually agree to each pay a portion of the cost related to the construction of that portion of the wastewater collection system located within Tract 1 in accordance with the following:

Oakport 90% of Construction Cost

Moorhead 10% of Construction Cost

e. Moorhead To Own. Upon completion of construction by Oakport, and subsequent to Moorhead's final acceptance of same, that portion of the wastewater collection system located within Tract 1 will automatically become the property of Moorhead at no cost to Moorhead free of any and all liens, encumbrances or continuing financial obligations except those arising out of the initial financing and construction of the wastewater collection system.

f. Moorhead to Operate, Maintain and Repair. Moorhead will operate, maintain and repair at its own expense that portion of the wastewater collection system located within Tract 1.

7. Water Distribution System/Water Service

Moorhead owns and operates a water distribution system, and, at its discretion, may extend this system into Tract 1. Oakport may request extension of Moorhead's water distribution system through Tract 1 in accordance with the following:

a. Oakport Request for a Water Distribution System.

Oakport's request for extension of the water distribution system will be granted provided the area to be served by extension of the system is included within an area designated for orderly annexation by joint resolution of Moorhead and Oakport, and Oakport pays and holds Moorhead harmless for 100% of the costs of the extension requested by Oakport.

b. Oakport to Finance and Construct. Oakport will finance and construct that portion of the water distribution system within Moorhead and Tract 1 to the point of water distribution system connection.

c. Moorhead to Own. Upon completion of construction by Oakport, and subsequent to Moorhead's final acceptance of same, that portion of the water distribution system located within Tract 1 will automatically become the property of Moorhead at no cost to Moorhead free of any and all liens, encumbrances or continuing financial obligations except those arising out of the initial financing and construction of the water distribution system.

d. Compliance with Moorhead Specifications. The water distribution system will be designed and installed to current Moorhead Public Service Department specifications

for a water distribution system, be certified by a professional engineer as meeting Moorhead specifications, and be approved by the Moorhead Public Service Department and Minnesota State Health Department.

e. Moorhead's Right to Verify/Inspect. During installation of the water distribution system, Moorhead has the right to verify compliance with Moorhead specifications. To ensure same, Moorhead will, at its expense through its Public Service Department or designee, inspect the water distribution system or any portion thereof throughout its installation.

f. Moorhead's Final Acceptance/"As Built" Plans. Moorhead's final acceptance of the water distribution system or any portion thereof from Oakport is conditional upon receipt from Oakport's consulting engineer of a certificate of compliance with Moorhead's specifications satisfactory to Moorhead. Prior to final acceptance of the system or any portion thereof by Moorhead, a complete set of reproduceable "as built" plans for Oakport's water distribution system or any portion thereof must be provided to Moorhead with the cost of the plans to be paid by Oakport.

8. Municipal Services

Upon the effective date of annexation of Tract 1, Moorhead will provide municipal services, including but not limited to, fire and police protection.

9. Bike/Pedestrian Path

a. Moorhead to Accept Deeds of Dedication. Moorhead will accept deeds of dedication at no cost to Moorhead from property owners along the Red River of a fifty (50) foot easement for the development of a bike/pedestrian path and for maintenance of the river bank.

b. Property Owners Not Required to Dedicate Bike/Pedestrian Easement Prior to Hook-Up. Property owners will not be required to dedicate a bike/pedestrian easement prior to hook-up to water and sewer services.

c. Moorhead May Acquire Easements. Upon the effective date of annexation of Tract 1, Moorhead, at its discretion, will acquire, for just compensation, those bike/pedestrian easements which have not been previously dedicated.

d. Conditions Affecting Installation of Bike/Pedestrian Path. The transfer of a bike/pedestrian easement from the property owners to Moorhead will be a transaction between Moorhead and property owners which will in no way involve Oakport. When and if installed, said bike/pedestrian path will be installed as close to the Red River as is feasible. Construction and maintenance of the bike/pedestrian path will be the responsibility of Moorhead. Maintenance of the fifty (50) foot easement, excluding the bike/pedestrian path, will continue as the responsibility of the property owners. A notice of intent to install the

bike/pedestrian path will be sent to all property owners a minimum of sixty (60) days prior to the start of construction. Moorhead will enact an ordinance defining and controlling the use of the bike/pedestrian easement which will specifically prohibit loitering on the bike/pedestrian easement, trespassing on adjacent properties, and any act which could be deemed to be a public nuisance or a private nuisance. Moorhead agrees to indemnify, except for the intentional acts of property owners, and hold harmless any property owners against, and in respect of any and all liabilities property owners may incur as a result of claims by third parties as a result of the use of the bike/pedestrian easement by said third parties, or as the result of any trespassing by said third parties on property adjacent to the bike/pedestrian easement. For the purposes of this paragraph, "claims" will mean all claims, demands, third party actions, accounts, causes of action and judgments, known and unknown, developed and undeveloped, discovered and undiscovered, and "liability" will mean all losses, expenses, obligations, costs, (including defense costs) whether or not reduced to judgment.

10. Sidewalks

Moorhead agrees not to require the construction of sidewalks upon any single-family residential lot located within Tract 1 in existence on the effective date of this Joint Resolution. Future sidewalks may be constructed pursuant to a petition of property owners or as may be required by Moorhead's zoning, subdivision and land use regulations.

11. Flood Protection

Certain property located within Tract 1 is subject to periodic flooding. Moorhead will assume no obligation for unique or extraordinary flood protection in this area. Further, property owners acknowledge that upon the effective date of annexation of Tract 1, flood control measures will be implemented at Moorhead's sole discretion consistent with flood control measures implemented in other areas of Moorhead.

12. Clay County Roads and Bridges

All roads and bridges within Tract 1 which are presently under the jurisdiction of Clay County will continue to be the responsibility of Clay County for the purpose of maintenance, repair and replacement.

13. Electric Service

Moorhead Public Service Department will provide electric service to that portion of Tract 1 defined as within the Moorhead Public Service Department service area by the Minnesota Public Utilities Commission. Upon the effective date of annexation, Moorhead Public Service will petition the Minnesota Public Utilities Association to include all of Tract 1 within the Public Service Department's service area. Moorhead Public Service shall, upon approval of the Minnesota Public Utilities Commission of this service area change, provide service to the entirety of Tract 1.

14. Recordation/Run With Land

Moorhead and Oakport agree that by recording this Joint Resolution in the Clay County Recorder's Office it is intended that the agreements contained in this Joint Resolution run with the land.

15. Modifying/Amending Joint Resolution

The parties to this Joint Resolution agree that this agreement will not be modified or amended, nor will the stated boundaries be altered unless mutually agreed to through resolution of each party and approved by the Minnesota Municipal Board.

16. With Respect to Interpretation of this Joint Resolution

a. Event of Conflict. In the event of conflict, both parties agree to negotiate in good faith to resolve any differences between them.

b. Impasse/Binding Arbitration. If either party declares that an impasse has been reached, then both parties agree to submit the matter to binding arbitration.

17. Ordering in of Annexation

Upon receipt of an Initiating Resolution under this Joint Resolution, the Minnesota Municipal Board may review and comment, but will, within thirty (30) days, order the annexation in accordance with the terms of this Joint Resolution.

18. Oakport/Moorhead Cooperation

Oakport and Moorhead resolve to fully cooperate with the Minnesota Municipal Board in connection with this Joint Resolution and agreements therein.

PASSED AND ADOPTED by the Town Board of Moorhead, Minnesota, this 12 day of February 19 90.

APPROVED BY:

Albert E. Sipe
Albert E. Sipe, Town Board Chair

ATTEST:

Carol M. Kuehl
Carol M. Kuehl, Town Clerk

(SEAL)

PASSED by the City Council of the City of Moorhead this 25th day of January 19 90.

APPROVED BY:

Morris L. Lanning
MORRIS L. LANNING, Mayor

ATTEST:

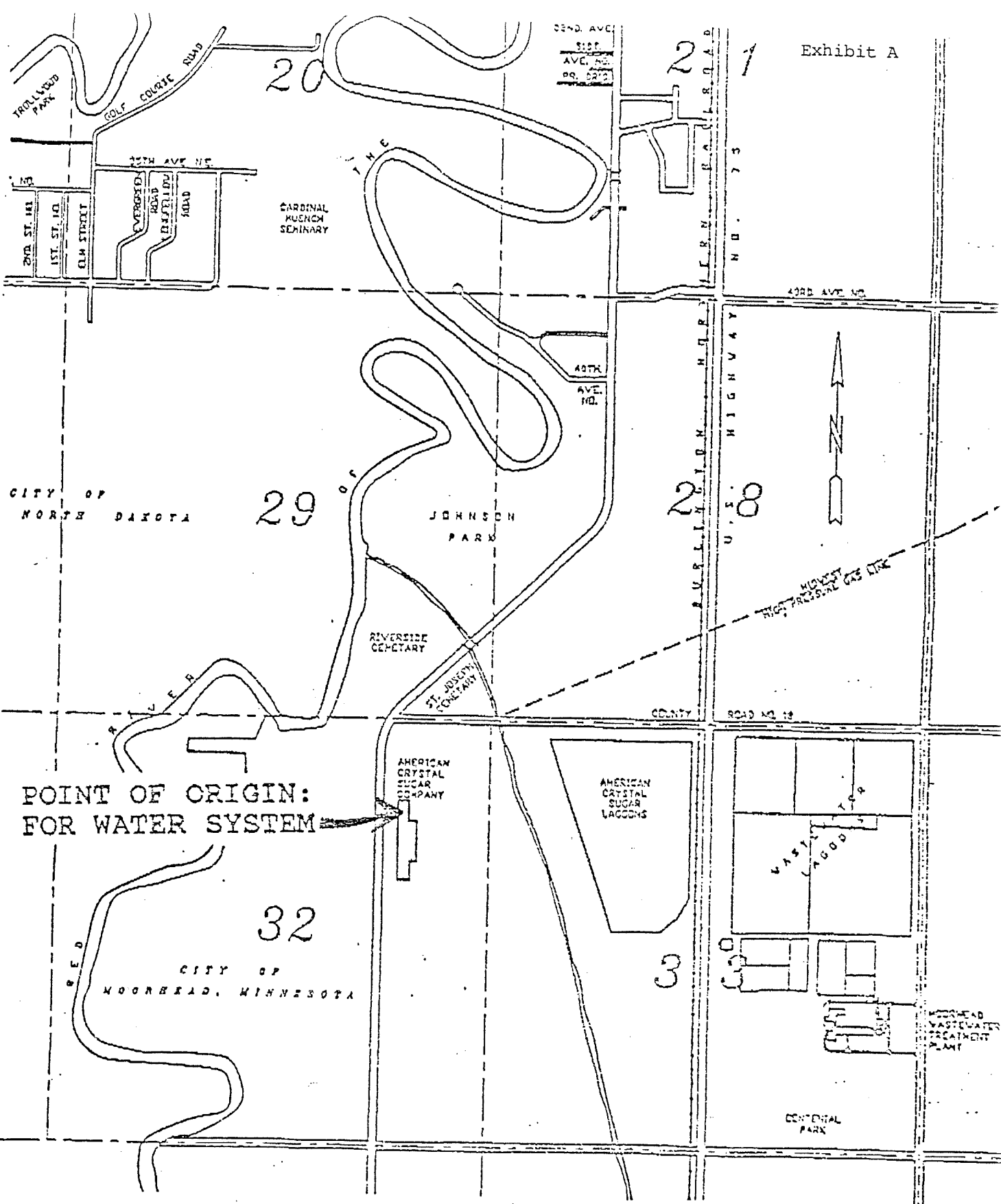
Kaye E. Buchholz
KAYE E. BUCHHOLZ, City Clerk

(SEAL)

LIST OF EXHIBITS

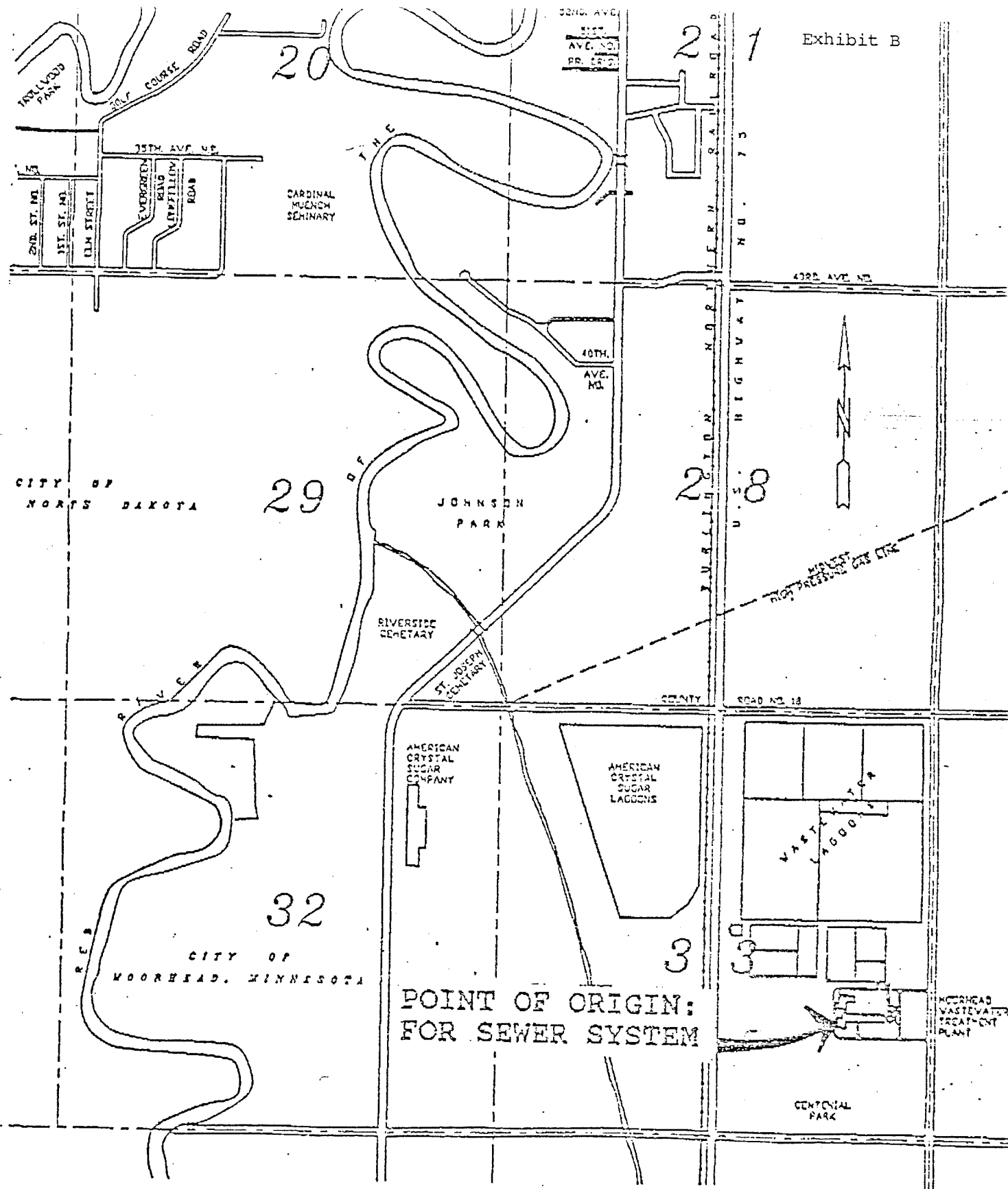
- Exhibit A: Point of Water Distribution System Connection
- Exhibit B: Point of Wastewater Collection System Connection
- Exhibit C: Legal Description of Tract 1
- Exhibit D: Legal Description of Tract 2
- Exhibit E: Map of Tract 1 and Tract 2

EXHIBIT A TO JOINT RESOLUTION (TRACT 1)
POINT OF WATER DISTRIBUTION SYSTEM CONNECTION



TOWN OF OAKPORT

EXHIBIT B TO JOINT RESOLUTION (TRACT 1)
POINT OF WASTEWATER COLLECTION SYSTEM CONNECTION



TOWN OF OAKPORT

EXHIBIT C TO JOINT RESOLUTION (TRACT 1)

LEGAL DESCRIPTION OF TRACT 1

The following described property constitutes the real estate designated as Tract 1:

- a. The portion of the west half of Section 28 lying east of the Red River of the North less Government Lot 1, and;
- b. The portion of Section 29 lying east of said river less the portion in the NE 1/4 of the NE 1/4 lying east of said river, and less the Palmer Nymark property in Government Lots 3 and 4 described as two parcels:
 1. The first parcel described as beginning at a point 14 feet west of the Southeast Corner of Government Lot 3, thence West 200 feet on the north line of Government Lot 3, thence North 554.5 feet parallel to the east line of Section 29, thence East 200 feet to a point 14 feet west of the east line of Section 29, thence South 554.5 feet to the point of beginning.
 2. The second parcel described as beginning at the Northeast Corner of Government Lot 4, thence West 7.50 chains (approximately 495 feet) on the north line of Government Lot 4, thence S 2°45' E a distance of 8.52 chains (approximately 562.3 feet); thence N 44° E a distance of 10.04 chains (approximately 662.6 feet) to a point of intersection with the east line of Section 29, thence North 1.32 chains (approximately 87.1 feet) on the east line of Section 29 to the point of beginning.
- c. The north half of Section 33 less the Moorhead Rod and Gun Club property described as two parcels:
 1. The first parcel described as beginning at the Northwest Corner of Section 33, thence South 456.9 feet on the west line of Section 33, thence East 286 feet, thence North 456.9 feet to the north line of Section 33, thence West 286 feet on the north line of Section 33 to the point of beginning.
 2. The second parcel described as beginning at the Northeast Corner of Section 32, thence West 254.69 feet on the north line of Section 32 to a point of intersection with the north bank of Clay County ditch 41, thence southeasterly along the said ditch bank to a point of intersection with the east line of Section 32, thence North 384.00 feet more or less on the east line of Section 32 to the point of beginning.

EXHIBIT D TO JOINT RESOLUTION (TRACT 1)

LEGAL DESCRIPTION OF TRACT 2

The following described property constitutes the real estate designated as Tract 2:

- a. The south 754 feet of the SW 1/4 of Section 16, and;
- b. A triangular shaped parcel described as beginning 749.7 feet north of the SW corner of Section 16, thence north 965.54 feet, thence southeasterly 228.98 feet, thence northeast 7 feet, thence south 181.53 feet, thence southeast 898.68 feet, thence west 852.56 feet to point of beginning, and;
- c. The west 1518 feet of the NW 1/4 of Section 17, and;
- d. The portion of the south half of Section 17 lying north of the Red River of the North, and;
- e. The portion of Section 18 lying east and north of said river, and;
- f. The portion of Section 19 lying east and north of said river, and;
- g. The portion of Section 20 lying north and east of said river, and;
- h. The portion of the west half of Section 21 lying east of said river, and;
- i. The portion of the NW 1/4 of the NW 1/4 of Section 28 lying east of said river, and;
- j. The portion of the NE 1/4 of the NE 1/4 of Section 29 lying east of said river, and;
- k. The Palmer Nymark property in Government Lots 3 and 4 described as two parcels:
 1. The first parcel described as beginning at a point 14 feet west of the Southeast Corner of Government Lot 3, thence West 200 feet on the north line of Government Lot 3, thence North 554.5 feet parallel to the east line of Section 29, thence East 200 feet to a point 14 feet west of the east line of Section 29, thence South 554.5 feet to the point of beginning.
 2. The second parcel described as beginning at the Northeast Corner of Government Lot 4, thence West 7.50 chains (approximately 495 feet) on the north line of Government Lot 4, thence S 2°45' E a distance of 8.52 chains (approximately 562.3 feet); thence N 44° E a distance of 10.04 chains (approximately 662.6 feet) to a point of intersection with the east line of Section

29, thence North 1.32 chains (approximately 87.1 feet) on the east line of Section 29 to the point of beginning, and;

1. The Moorhead Rod and Gun Club property described as two parcels:
 1. The first parcel beginning at the Northwest Corner of Section 33, thence South 456.9 feet on the west line of Section 33, thence East 286 feet, thence North 456.9 feet to the north line of Section 33, thence West 286 feet on the north line of Section 33 to the point of beginning.
 2. The second parcel described as beginning at the Northeast Corner of Section 32, thence West 254.69 feet on the north line of Section 32 to a point of intersection with the north bank of Clay County ditch 41, thence southeasterly along the said ditch bank to a point of intersection with the east line of Section 32 thence North 384.00 feet more or less on the east line of Section 32 to the point of beginning.

EXHIBIT E TO JOINT RESOLUTION (TRACT 1)

MAP OF TRACT 1 AND TRACT 2

