

REC'D. BY JUN 17 1998
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COPY

Joint Resolution
between
City of Gilbert and the Town of Fayal
For Orderly Annexation pursuant to Minn. Stat. §414.0325

TOWN OF FAYAL

BE IT RESOLVED by the Town of Fayal, by and through its Board of Town Supervisors, and the City of Gilbert, by and through its City Council, that Fayal and Gilbert do hereby jointly agree to the following:

I. Definitions

For the purposes of the this Joint Resolution, the following definitions apply:

1. Joint Resolution. "Joint resolution" will mean a resolution between Fayal Township and the City of Gilbert, adopted by the governing body of each municipality, designating an area for orderly annexation pursuant to Minnesota Statute 414.0325 and the terms contained within the joint resolution. Joint Resolution will also mean any subsequent joint resolution which states that its purpose is to modify, amend, change, or terminate this joint resolution.

2. Initiating Resolution. "Initiating Resolution" will mean a resolution of the Town of Fayal which will certify that all of the terms and conditions of this orderly annexation agreement have been fulfilled, and which, pursuant to Minn. Stat. 414.0325, Subd. 1 (1998), the submission of said Initiating Resolution to the Minnesota Municipal Board will cause the Minnesota Municipal Board to order the annexation of the Town of Fayal, or a portion thereof, to the City of Gilbert.

3. Bulk Water Contract. "Bulk Water Contract" will mean the contract entered into between the City of Gilbert and the Town of Fayal, dated December 4, 1997 which provides for the sale of bulk water by Gilbert to Fayal at a fixed price. A copy of this Bulk Water Contract is attached hereto as Exhibit A.

4. Effluent Treatment Agreement. "Effluent Treatment Agreement" will mean the contract entered into between the City of Gilbert and the Town of Fayal, dated April ____, 1998 which provides for the treatment by Gilbert of sewage collected by the Town. A copy of this Effluent Treatment Agreement is attached hereto as Exhibit B.

5. Minnesota Municipal Board. "Minnesota Municipal Board" will mean the existing Minnesota Municipal Board as provided by Minnesota Statutes Chapter 414 or a successor agency subsequently created by the Legislature to assume the duties and powers currently vested in the Minnesota Municipal Board.

II. Reasons for Annexation

It is specifically found that:

1. The Town of Fayal is now presently rural residential in character.
2. The Town of Fayal is in need of a clean, healthy, safe, reliable, and cost-efficient source of potable water for its existing municipal water system and for expansion of the existing municipal water system to meet future growth within Fayal.
3. The Town of Fayal is now in need of or will be in the near future in need of a municipal sewage treatment facilities for some or all of its residents.

4. The existing township form of government within the Town of Fayal is presently adequate to deliver all essential, necessary, or preferred governmental services to the residents of the Town of Fayal.

5. Municipal water and sewage service can be best provided to residents of Fayal Township through sharing or pairing of services and facilities with other local municipalities.

6. The City of Gilbert, by resolution of its City Council, has, on its own initiative, indicated its desire to work jointly with and cooperate with the Town of Fayal in the provision of municipal water services, municipal sewage treatment services, and other municipal services as may now or in the future be needed or desired by the Town of Fayal.

7. The City of Gilbert is capable of providing and has existing physical capacity to provide municipal water in bulk and sewage treatment services to the Town of Fayal. The City of Gilbert is also capable of providing additional governmental services to the Town of Fayal to adequately serve the health, welfare, and safety of the residents of the Town of Fayal.

8. The City of Gilbert and the Town of Fayal have entered into contracts for the provision of (1) municipal water in bulk (Bulk Water Contract) and (2) for sewage treatment services (Effluent Treatment Agreement) to be provided to the Town of Fayal by the City of Gilbert. These contracts are in the best interests of the City of Gilbert and the Town of Fayal because they allow the use of excess service capacity presently available through Gilbert to be provided to the Town of Fayal at a cost-efficient price. These contracts also allow Fayal to exercise administrative, managerial, and ownership control over the water and sewer systems within the Town of Fayal.

9. The future annexation of the Town of Fayal to the City of Gilbert holds the potential for increased ability of the municipal government to solve existing or potential environmental problems associated with the four lakes within the boundaries of the Town of Fayal. The future annexation of the Town of Fayal to the City of Gilbert also holds the potential for increased ability to meet other public health, public safety, and welfare needs of the Town of Fayal.

10. Other neighboring and contiguous municipalities (1) are unable to provide similar municipal services at all, (2) are unable to provide similar municipal services at a reasonable price, (3) are unable to provide resources to meet existing and potential environmental problems, and/or (4) unable to contribute to, support, and promote the future growth and development of the area within the Town of Fayal in a cooperative manner.

11. The orderly annexation proposed in this joint resolution would be in the best interests of the area proposed for annexation, subject to the terms and conditions of this joint resolution.

III. Annexation Area; Effective Date of Annexation; Taxation

1. Area to be Annexed. Subject to the terms and conditions precedent to annexation and contained in this resolution, the entire Town of Fayal will be annexed to the City of Gilbert under the terms of this Joint Resolution.

The parties may, by joint resolution, reduce the area to be annexed to some portion of the Town of Fayal that is less than the entire Town. Should the parties by joint resolution agree to annexation of a reduced area, the joint resolution shall be submitted to the Minnesota Municipal

Board, and the Initiating Resolution shall accurately describe and reflect the reduced area to be annexed. The Minnesota Municipal Board shall order annexation only of the area described in the Initiating resolution.

2. Effective Date. The effective date of annexation will be January 1, 2023, subject to the terms and conditions of this Joint Resolution.

3. Procedure. Fayal will file this Joint Resolution and, if required by the terms and provisions of this Agreement, an Initiating Resolution, with the Minnesota Municipal Board and comply with such requirements as may be necessary to provide for the effective annexation of the Town of Fayal on January 1, 2023. The annexation provided for herein will not be effective until an Initiating Resolution is filed with the Minnesota Municipal Board by the Town of Fayal. No Initiating Resolution may be filed with the Minnesota Municipal Board prior to January 1, 2020.

4. Municipal Board Consideration. Pursuant to Minn. Stat. §414.0325, Subd. 1, this Joint Resolution, when filed with the Minnesota Municipal Board, will confer jurisdiction upon the Minnesota Municipal Board over the annexation of the area designated for orderly annexation in this Joint resolution or a subsequent joint resolution. Pursuant to Minn. Stat. §414.0325, subd. 1., no alteration of the stated boundaries of the area for annexation is appropriate, and no consideration of this orderly annexation by the Municipal Board is necessary.

5. Taxation. The tax rate of Gilbert will apply to Fayal upon the effective date of annexation. Prior to the effective date of annexation the tax rate as established by the Fayal Town Board of Supervisors will apply to the Town of Fayal.

IV. Conditions Precedent to Annexation

1. Cooperation Required. No Initiating Resolution may be filed by Fayal with the Municipal Board and no Orderly Annexation may be approved by the Municipal Board until the following conditions precedent to annexation have been met:

a. Gilbert and Fayal shall have, through contract or other means, provided municipal water service to the residents of Fayal on an uninterrupted basis for a period of 20 years; and,

b. Gilbert and Fayal shall have, through contract or other means, provided for municipal wastewater treatment services to the residents of Fayal on an uninterrupted basis for a period of 15 years.

2. Citizen Approval. Notwithstanding the preceding section, no Initiating Resolution may be filed with the Minnesota Municipal Board until the following conditions precedent to annexation have been met:

a. The annexation shall be approved by an affirmative majority vote of Fayal Township's eligible voters, as determined by the number of registered voters on the voter registration list at the time of the special election, at a special election to be held on or before January 1, 2020 at which the only issue to be placed before the eligible voters shall be the following: "Shall the Town of Fayal [or a portion thereof] be annexed to the City of Gilbert?" and,

b. The annexation shall be approved by an affirmative majority vote of Gilbert's eligible voters, as determined by the number of registered voters on the voter registration list at the time of the special election, at a special election to be held on or

before January 1, 2020 at which the only issue to be placed before the eligible voters shall be the following: "Shall the Town of Fayal [or a portion thereof] be annexed to the City of Gilbert?"

c. Each respective party to this agreement shall set the date for said special election by joint resolution of the two governing bodies of the two communities.

3. The orderly annexation agreement shall be null and void, and no party may file an Initiating Resolution if either municipality's citizens reject annexation by the referendum vote provided for in this agreement.

V. Provision of Municipal Water Services to Fayal Township

1. The parties have entered into a Bulk Water Contract for the provision of municipal bulk water by the Gilbert to Fayal. (Exhibit A).

2. The parties agree that they will work cooperatively through contracts, joint powers agreements, or other methods established by law, to provide water to residents of Fayal during the period preceding the effective date of annexation.

VI. Provision of Wastewater Treatment Services to Fayal Township

1. Fayal is desirous of developing a municipal wastewater treatment system for the residential areas surrounding and near Ely Lake, St. Mary's Lake, Long Lake, and Pleasant Lake. Gilbert has excess and unused capacity in its existing wastewater treatment facility.

2. Gilbert and Fayal have entered into an Effluent Treatment Agreement for the provision of wastewater treatment services by Gilbert to Fayal. (Exhibit B).

3. The parties agree that they will work cooperatively, through contracts, joint powers agreements, or other methods established by law, to provide municipal wastewater treatment to certain areas of Fayal through the use of Gilbert's wastewater treatment facilities during the period preceding the effective date of annexation.

VII. Planning and Land Use; Zoning

Pursuant to Minn. Stat. §414.0325, Subdivision 5, the parties agree to work cooperatively to enter into a joint powers agreement, either with or without St. Louis County, to exercise planning and land use control authority within the area designated for annexation.

VIII. Law Enforcement

If Fayal determines it is in need of additional public safety resources and protection prior to the effective date of this annexation agreement, the parties agree that they will work cooperatively through contracts, joint powers agreements, or other methods established by law, to provide additional law enforcement protection through the Gilbert police department and/or through St. Louis County.

IX. Other Governmental Services

The parties agree to work cooperatively through contracts, joint powers agreements, or other methods established by law, to provide additional governmental services to the Town of Fayal when such services are identified by the Fayal Town Board of Supervisors as necessary or desirous for the public health, safety, welfare, and development of the Town of Fayal.

X. Recordation; Agreement to Run with the Land

Gilbert and Fayal agree that by recording this Joint Resolution in the St. Louis County Recorder's Office it is intended that the agreements contained in this Joint Resolution run with the land.

Should this joint resolution and the orderly annexation provided for herein become null and void pursuant to the terms and conditions of this Agreement, pursuant to a decision of a court of law of competent jurisdiction, or pursuant to an action by the Minnesota Legislature or a state agency or department designated by the Legislature as having jurisdiction over this matter, Gilbert and Fayal agree to jointly execute an affidavit in recordable form reflecting the termination, nullity, and invalidity of this resolution and the orderly annexation provided for herein.

XI. Modifying, Amending, or Terminating Joint Resolution

The parties agree that the terms of this joint resolution may be modified, amended, or terminated only by a joint resolution adopted by each party.

XII. Interpretation of Joint Resolution; Resolution of Disputes

1. In the event of conflict in the application or interpretation of this agreement, the parties agree to negotiate in good faith to resolve any differences between them.

2. Both parties agree that if either party declares that an impasse has been reached in a good faith negotiation to resolve a conflict under this agreement, then the matter shall be promptly submitted to binding arbitration under the rules of the American Arbitration Association.

XIII. Ordering of Annexation

1. Upon receipt of an Initiating Resolution provided for under this Joint Resolution, the Minnesota Municipal Board may review and comment, but will, in accordance with Minnesota Statutes 414.0325, Subd. 1 (1998), order the annexation in accordance with the terms of this resolution.

2. This joint resolution is based and predicated upon the laws of the State of Minnesota, as in existence at the time this resolution is adopted by the parties. Any statutory changes which materially change the effect of this resolution may be deemed by either party to make this entire joint resolution null and void.

Any material action by either party or by a state board or agency having jurisdiction over this matter that is not in accordance with the terms and conditions of this orderly annexation agreement shall make this Joint Resolution null and void.

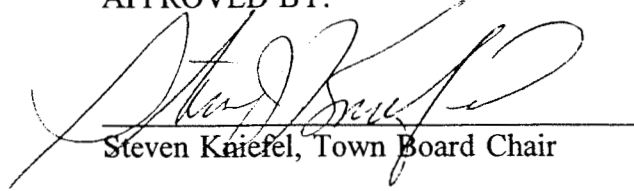
A party may only deem the joint resolution null and void under this section by adoption of a resolution. The resolution shall specifically cite the statutory change or material action and describe the material change it has worked upon the effect of this joint resolution or how the material action is not in accordance with the terms and conditions of the Joint Resolution.

XIV. Mutual Cooperation

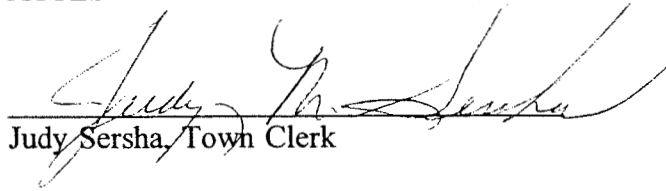
Fayal and Gilbert resolve to fully cooperate with each other in connection with this joint resolution, and any related agreements, whether adopted prior to, concurrent with, or subsequent to this joint resolution.

PASSED AND ADOPTED by the Town Board of Fayal, Minnesota, the 17 day of MARCH, 1998.

APPROVED BY:

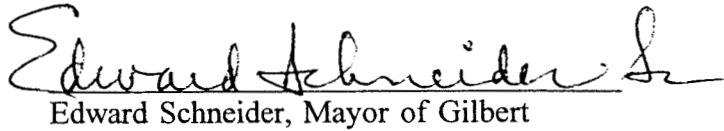

Steven Kniefel, Town Board Chair

ATTEST:

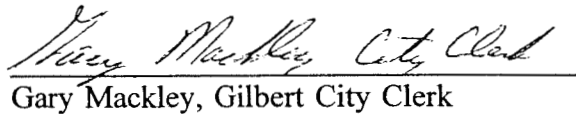

Judy Sersha, Town Clerk

PASSED by the City Council of the City of Gilbert this 28th day of APRIL, 1998.

APPROVED BY:


Edward Schneider, Mayor of Gilbert

ATTEST:

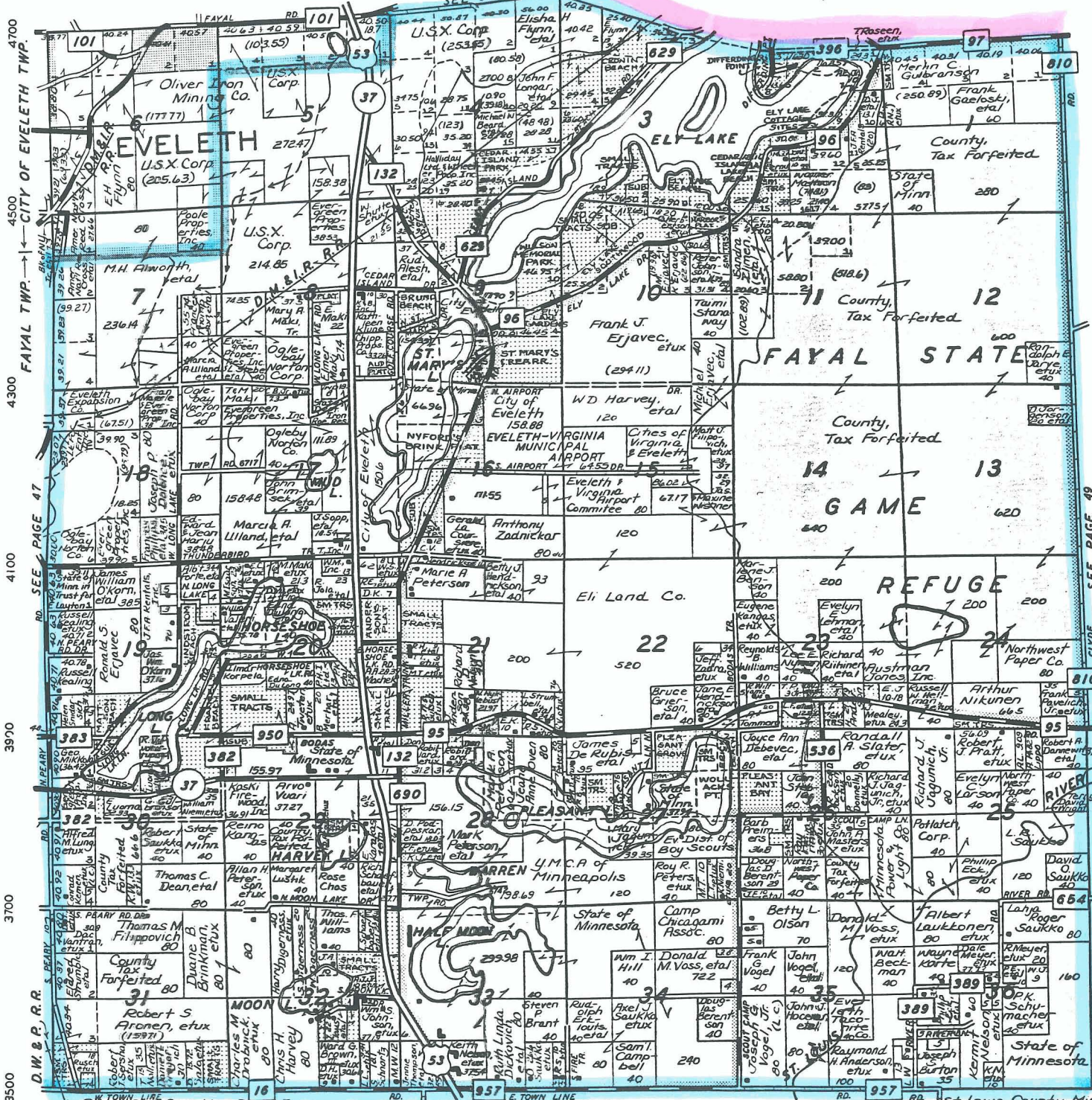

Gary Mackley, Gilbert City Clerk

Gilbert

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Fayal

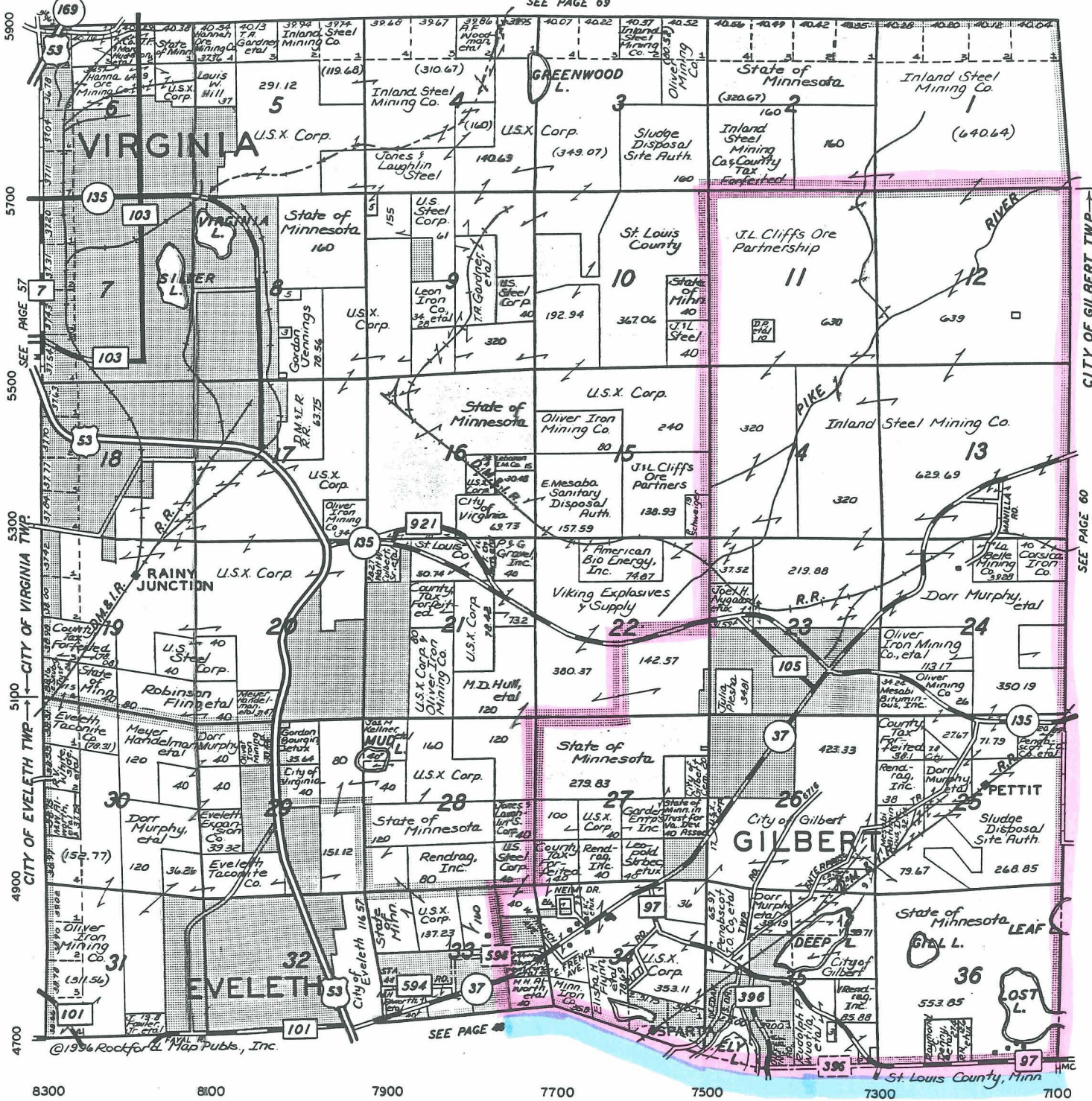
CITY OF GILBERT

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