

REC'D BY  
MMB

AUG 21 2003

**A-6806 Bemidji/Bemidji Township**

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

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IN THE MATTER OF THE RESOLUTION OF )  
THE CITY OF BEMIDJI TO ANNEX CERTAIN )  
LAND TO THE CITY OF BEMIDJI PURSUANT )  
TO MINNESOTA STATUTES, SECTION 414.033) )  
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**JOINT RESOLUTION**

**JOINT RESOLUTION FOR ORDERLY ANNEXATION**  
**BY AND BETWEEN BEMIDJI TOWNSHIP AND**  
**THE CITY OF BEMIDJI IN SETTLEMENT OF**  
**FILE NO. A-6806 BEMIDJI/BEMIDJI TOWNSHIP**

WHEREAS, the City of Bemidji ("City") adopted and filed Resolution No. 4995, dated October 7, 2002, with the Minnesota Planning (now Department of Administration) Municipal Boundary Adjustments Office, pursuant to Minnesota Statutes, Section 414.033, subd. 3, (File No. A-6806 Bemidji/Bemidji Township) seeking annexation of certain property located within Bemidji Township ("Township") commonly known as the "Lost 40"; and

WHEREAS, pursuant to Section 414.033, subd. 3, the Township filed a timely objection to the City's annexation resolution with the Minnesota Planning Municipal Boundary Adjustments Office, dated March 7, 2003; and

WHEREAS, Section 414.033, subd. 3, requires that if a timely objection is filed, the director shall conduct hearings and issue an order as in the case of annexations under section 414.031, subdivisions 3 and 4; and

WHEREAS, the acting director of the Minnesota Planning Agency issued a notice of hearing on the matter, dated April 7, 2003; and

WHEREAS, in a letter dated April 17, 2003, the Minnesota Planning Agency ordered the City and Township into mediation in an effort to reach settlement of the matter; and

WHEREAS, a hearing on the matter was convened on May 7, 2003 and continued indefinitely pending the outcome of mediation; and

WHEREAS, the City and Township met in mediation on June 26, 2003 and have reached a mutually beneficial agreement for the orderly annexation of the areas legally described herein in settlement of the above-referenced matter; and

WHEREAS, the City and Township agree that the City has available capacity to provide services to the area commonly known as the Lost 40, legally described herein; and

WHEREAS, the City and Township agree that the property legally described herein meets the definition for annexation as contained in applicable statutes, Minnesota Statutes, Sections 414.031, 414.0325, and 414.033; and

WHEREAS, the City and Township desire to accomplish the immediate orderly annexation of the property legally described herein without the need for a contested case hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bemidji and the Town Board of Supervisors of the Township of Bemidji as follows:

1. Designation of Area. The City and Township hereby designate the area commonly known as the "Lost 40", legally described in Exhibit A, which is attached hereto and incorporated herein by reference, for immediate orderly annexation pursuant to Minnesota Statutes, Section 414.0325.
2. Acreage. The City and Township agree that the area legally described in Exhibit A and designated as in need of immediate orderly annexation is approximately 36.24 acres.
3. Boundary Map. A boundary map showing the area legally described in Exhibit A is attached hereto as Exhibit B and incorporated herein by reference.
4. Municipal Services. The City and Township agree that after annexation pursuant to the terms of this Joint Resolution, the City shall be responsible for providing municipal governmental services within the area commonly known as the Lost 40.
5. Property Tax Reimbursement. The City and Township agree that the property taxes payable in the area legally described in Exhibit A shall be paid to the City starting in the year in which the annexation becomes effective. If annexation of the area legally described in Exhibit A becomes effective before August 1 of a levy year, the City shall levy on the annexed area for the levy year and thereafter. Subject to Paragraph 6.d., the City shall make a cash payment to the Township for the period and in accordance with the following schedule: 1) In the first year following the year the City could first levy on the annexed area, an amount equal to ninety (90) percent of the property taxes distributed to the Township in regard to the annexed area in the last year that property taxes from the annexed area were payable to the Township; 2) In the second year, an amount equal to seventy (70) percent; 3) In the third year, an amount equal to fifty (50) percent; 4) In the fourth year, an amount equal to thirty (30) percent; and 5) In the fifth and final year, an amount equal to ten (10) percent. Thereafter, the City will no longer reimburse the Township.
6. Sewer and Water Service. The City and Township agree that the City shall construct a City sanitary sewer and water improvement project within the area legally described in Exhibit A following annexation thereof to the City. The City and Township agree that the City sanitary sewer and water project constructed in the area legally described in Exhibit A shall

make City sewer and water service available to individual properties located within the area legally described in Exhibit A for hook-up/connection to the City sewer and water system. The City and Township agree that the City shall proceed with the installation of the sewer and water improvement project within the area legally described in Exhibit A in accordance with the following schedule:

- a. The City shall complete a feasibility study for a City sewer and water improvement project within the area legally described in Exhibit A within one (1) year of the effective date of the order of the Department of Administration for annexation of the area legally described in Exhibit A.
- b. The City shall initiate construction of the City sewer and water improvement project within the area legally described in Exhibit A within three (3) years of the effective date of the order of the Department of Administration for annexation of the area legally described in Exhibit A.
- c. The City shall substantially complete the City sewer and water improvement project within the area legally described in Exhibit A within four (4) years of the effective date of the order of the Department of Administration for annexation of the area legally described in Exhibit A. For purposes of this Joint Resolution, substantial completion of the City sewer and water improvement project means that City sewer and water trunk lines are available for hook-up/connection by individual property owners located within the area legally described in Exhibit A. Individual property owners shall be responsible for hook-up/connection from the City installed sewer and water trunk lines to an individual dwelling, business or other structure located within the area legally described in Exhibit A. A property owner shall request and receive approval for hook-up/connection from the City prior to connecting to the City sewer and/or water system. Property owners are responsible for all applicable assessments, hook-up charges, and costs of connection from an individual dwelling, business or other structure to the City sewer and water system constructed within the area legally described in Exhibit A.
- d. As provided in Paragraph 6.c., in the event the City fails, in the judgment of an arbitrator or other third party neutral selected by the City and Township, to substantially complete the sewer and water project within the area legally described in Exhibit A within four (4) years of the effective date of the order of the Department of Administration for annexation of the area legally described in Exhibit A, the City shall pay the Township an additional year of property tax reimbursement extending the reimbursement schedule as provided in Paragraph 5 as follows: In the fifth year, an amount equal to thirty (30) percent of the property taxes collected from properties located within the area legally described in Exhibit A distributed to the Township in regard to the annexed area in the last year that property taxes from the annexed area were payable to the Township; and in the sixth and final year, ten (10) percent of said amount. Thereafter, the City will no longer reimburse the Township.



7. Assessments. The City shall assess properties located within the area legally described in Exhibit A in accordance with City assessment policy, applicable City ordinances, state law, and the terms and conditions contained in this Joint Resolution. It is recognized that the installation of a municipal sanitary sewer and/or water system in a previously platted or developed area of multiple ownership with existing on-site sanitary sewer or water systems may not be of immediate need or benefit to abutting property owners. Therefore, following completion of the sanitary sewer and/or water system improvement project, individual property owners may request deferral of the connection to the improvement and payment of the applicable assessment and "hook-up charge" as described in City ordinance. The deferral of assessments and hook-up charges will be based on the documented age of the existing on-site system according to the following schedule:

AGE OF SYSTEM	LENGTH OF DEFERRAL
Over 15 years	0 years
12-15 years	3 years
8-11 years	7 years
4-7 years	11 years
3 years or less	15 years

In order to qualify for an assessment and "hook-up charge" deferral, the property owner must complete a "Request for Hook-up Charge Deferral" form as available from the City Clerk, and must attach a copy of any appropriate documentation establishing the installation date and/or age of the existing on-site sanitary sewer and/or water system. At the end of the deferral period, the amount of the assessment and "hook-up charge" will become due and payable under the terms and conditions noted in applicable City ordinance, and connection to the improvement will be required at that time.

The City and Township agree that a property located within the area legally described in Exhibit A shall be required to connect to the City sewer system, prior to the time specified for deferral and connection contained in the above schedule, in the event of the failure, as determined by the City, of the property's individual, on-site septic system. The City and Township agree that a property located within the area legally described in Exhibit A shall be required to connect to the City water system in the event of the failure, as determined by the City, of the property's individual well. In the event that only a property's individual septic system or well fails, but not both, the property owner may, at the time connection is required for the failed system, elect to also connect the non-failing on-site system to the applicable City system, but will not be required to do so, except as otherwise provided by the above schedule contained in this paragraph. The City and Township further agree that all properties located within the area legally described in Exhibit A shall be required to connect to the City sewer and water system no later than fifteen (15) years after the City sewer and water system improvement project is installed within the area legally described in Exhibit A.

Notwithstanding the foregoing, the City and Township agree that the City will not require properties located within the area legally described in Exhibit A to connect to the City water system for a period of fifteen (15) years after the City sewer and water system improvement



project is installed, unless the on-site well system for a property, as determined by the City, fails prior to the expiration of the 15 year period. Notwithstanding the foregoing, a property owner may request connection to the City sewer and/or water system at any time prior to the time connection is required under the terms of this agreement.

8. Capital Improvements. The City and Township agree that, within the area legally described in Exhibit A, there have been no recent significant Township capital improvement projects and that there are no issues concerning possible reimbursement for the costs of any such capital improvements.
9. Zoning. Following annexation of the area legally described in Exhibit A, once municipal services are delivered to the area the zoning will be changed from its current Township designation of R-1 to the City designation of R-3. Any existing uses that are not in conformity to these zoning classifications will be permitted to continue consistent with City policy, but such nonconforming uses shall not be expanded, modified or transferred to another owner.
10. Letter to Residents. The City and Township agree that the City, either prior to or within sixty (60) days after execution of this Joint Resolution shall mail a letter to all properties located within the area legally described in Exhibit A providing information regarding the estimated property tax impact on properties as a result of annexation of the Lost 40 to the City based on 2003 taxes payable. The letter shall also show the cost of similar City sewer and water improvement projects constructed in other parts of the City. The intent of the letter is to provide residents within the Lost 40 an estimate of the tax impact of annexation and a range of possible costs for the sewer and water improvement project keeping in mind that a detailed cost estimate for the sewer and water project for the area legally described in Exhibit A will not be available until the City completes its feasibility study for the project.
11. Septic Systems and Wells. The City and Township agree that the installation of new or replacement individual sewage treatment ("septic") systems or individual wells within the area legally described in Exhibit A is prohibited, unless approved in writing by the City. If any such systems should fail prior to the installation of City sanitary sewer and water services within the area, a property owner should take such interim measures as may be necessary to repair, maintain, or replace (subject to written approval by the City) their existing system as recommended by a state licensed Individual Sewage System Inspector until City sewer and water services are available for connection by the property.
12. No Hearing Required. Pursuant to Minnesota Statutes, Section 414.0325, the City and Township agree that no alteration of the boundaries stated herein is appropriate, that all conditions for annexation of the area legally described in Exhibit A are contained in this Joint Resolution, and that no consideration by the Department of Administration is necessary. Upon the execution and filing of this Joint Resolution, the Department of Administration may review and comment thereon, but shall, within 30 days of receipt of this Joint Resolution, order the annexation of the area legally described in Exhibit A in accordance with the terms and conditions contained in this Joint Resolution.

13. Filing of Joint Resolution. The City and Township agree that upon adoption and execution of this Joint Resolution, the City shall file the same with the Department of Administration Municipal Boundary Adjustments Office.
14. Grant Funding. For purposes of financing and/or defraying the costs for the provision of sewer and water service to the area legally described in Exhibit A, the City may seek grant funding from the United States Department of Agriculture (USDA) or other sources deemed appropriate by the City. To the extent necessary, the Township shall cooperate in securing such grant funding.
15. Withdrawal of Objection and Resolution. The Township hereby withdraws its objection to the annexation of the area legally described in Exhibit A in accordance with the terms contained in this Joint Resolution. The City shall, as soon as practicable after execution of this Joint Resolution, withdraw the City's annexation Resolution No. 4995.
16. Mediation Costs. The City and Township agree that upon adoption and execution of this Joint Resolution and issuance of an order annexing the area legally described in Exhibit A, the City shall be solely responsible for all fees and costs of the mediator, Andrew D. Hultgren, Attorney at Law, for the mediation of the above-referenced matter.
17. Adopt and Enforce Regulations. The City and Township agree to enact, adopt, and strictly enforce all such resolutions, ordinances, or regulations, as may be or shall be necessary to give full effect to the terms contained in this Joint Resolution.
18. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.
19. Modification/Amendment. This Joint Resolution shall not be modified, amended, or altered except upon the written joint resolution of the City and the Township duly executed and adopted by the City Council and the Township Board of Supervisors and filed with Department of Administration or its successor.
20. Severability. In the event that any provision of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties hereto.
21. Headings and Captions. Headings and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.
22. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution, including the present and all future exhibits and attachments, shall constitute the entire agreement between the parties hereto, superseding all prior agreements and negotiations.

This Joint Resolution shall be binding upon and inure to the benefit of the respective successors and assigns of the City and Township.

23. Disputes and Remedies. The City and Township agree as follows:

- a. Negotiation. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and the Township will direct staff members as they deem appropriate to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
- b. Arbitration. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties may mutually agree in writing to seek relief by submitting their respective grievances to binding arbitration.
- c. Adjudication. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to binding arbitration, either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

24. Legal Description and Mapping. In the event there are errors, omissions or any other problems with the legal description provided in Exhibit A or mapping provided in Exhibit B in the judgment of the Department of Administration, the City and Township agree to make such corrections and file any additional documentation, including a new Exhibit A or Exhibit B making the corrections requested or required by the Department of Administration as necessary to make effective the annexation of said area in accordance with the terms of this Joint Resolution.

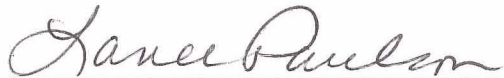


Passed, adopted, and approved by the Town Board of Supervisors of the Township of Bemidji, Beltrami County, Minnesota, this 11<sup>th</sup> day of August, 2003.

TOWN OF BEMIDJI

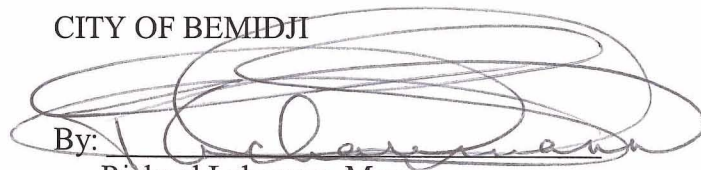
By:   
Ken Howe, Chair

ATTEST:


  
Lane Paulson, Township Clerk

Passed, adopted, and approved by the City Council of the City of Bemidji, Beltrami County, Minnesota, this 4<sup>th</sup> day of August, 2003.

CITY OF BEMIDJI

By:   
Richard Lehmann, Mayor

ATTEST:

  
Shirley J. Sherman, City Clerk

REC'D BY  
MMB

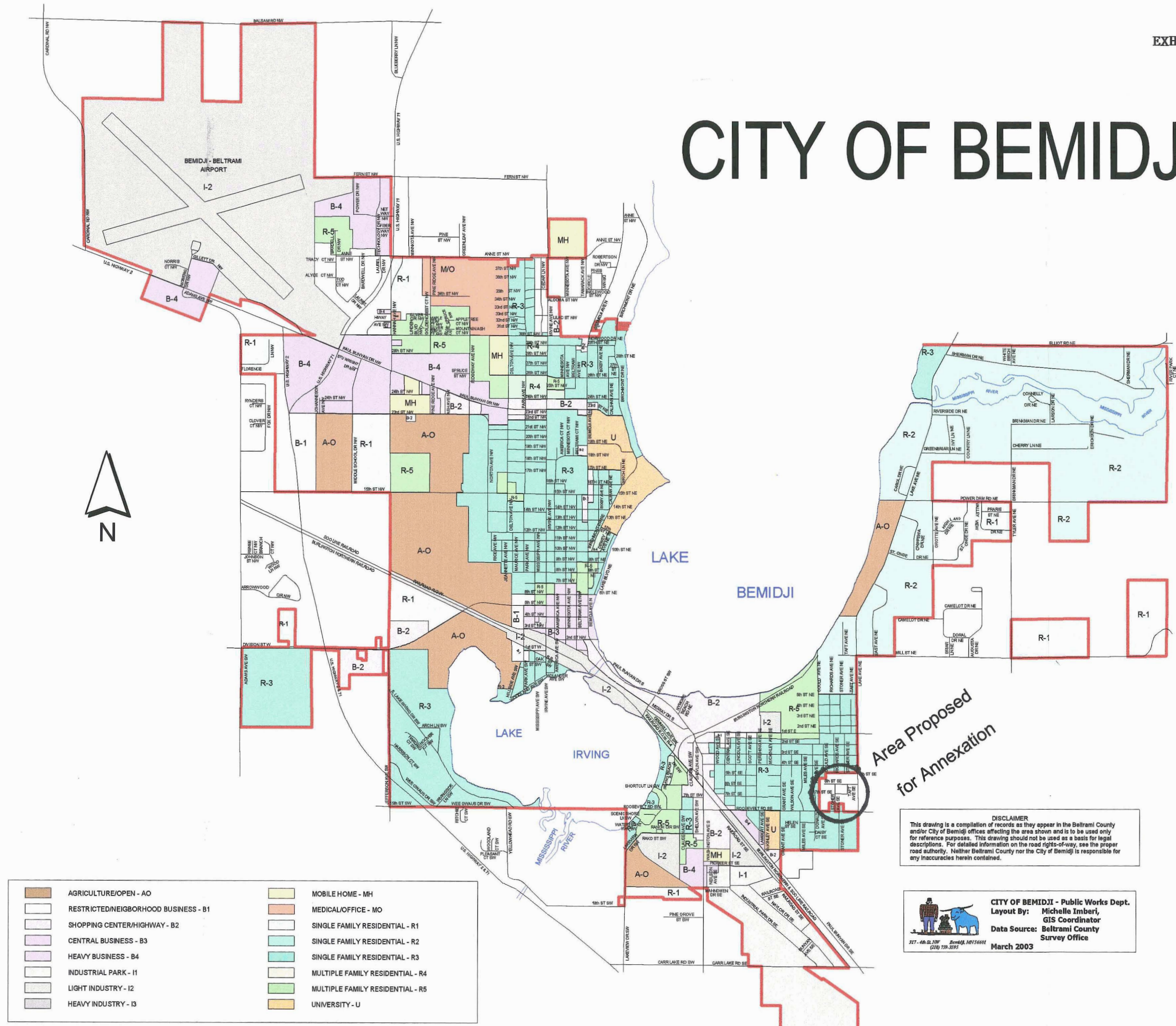
AUG 21 2003

# Exhibit A

The Southeast Quarter of the Southeast Quarter of Section 15, Township  
146 North, Range 33 West, less previously annexed tracts.

REC'D BY MMB AUG 21 2003

# CITY OF BEMIDJI



Area Proposed  
for Annexation

**DISCLAIMER**  
This drawing is a compilation of records as they appear in the Beltrami County and/or City of Bemidji offices affecting the area shown and is to be used only for reference purposes. This drawing should not be used as a basis for legal descriptions. For detailed information on the road rights-of-way, see the proper road authority. Neither Beltrami County nor the City of Bemidji is responsible for any inaccuracies herein contained.

	AGRICULTURE/OPEN - AO		MOBILE HOME - MH
	RESTRICTED/NEIGHBORHOOD BUSINESS - B1		MEDICAL/OFFICE - MO
	SHOPPING CENTER/HIGHWAY - B2		SINGLE FAMILY RESIDENTIAL - R1
	CENTRAL BUSINESS - B3		SINGLE FAMILY RESIDENTIAL - R2
	HEAVY BUSINESS - B4		SINGLE FAMILY RESIDENTIAL - R3
	INDUSTRIAL PARK - I1		MULTIPLE FAMILY RESIDENTIAL - R4
	LIGHT INDUSTRY - I2		MULTIPLE FAMILY RESIDENTIAL - R5
	HEAVY INDUSTRY - I3		UNIVERSITY - U

CITY OF BEMIDJI - Public Works Dept.  
Layout By: Michelle Imberl,  
GIS Coordinator  
Data Source: Beltrami County  
Survey Office  
March 2003



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MMB  
AUG 21 2003

