

RECEIVED SEP 01 1989

JOINT RESOLUTION BETWEEN THE TOWN
OF MOORHEAD AND THE CITY OF MOORHEAD
DESIGNATING AN AREA FOR ORDERLY ANNEXATION
PURSUANT TO MINNESOTA STATUTE 414.0325

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

1. Definitions: For purposes of this joint resolution:

a. "bike/pedestrian path" shall mean the hard surface trail or path constructed and maintained by the City within the bike/pedestrian easement.

b. "bike/pedestrian easement" shall mean the fifty (50) foot easement for the development of a bike/pedestrian path and for maintenance of the river bank over the described properties adjacent to the Red River as shown in Exhibit "A".

c. "City" shall mean the City of Moorhead, a municipal corporation, organized under the laws of the State of Minnesota.

d. "Joint Resolution" shall mean this joint resolution between the Town of Moorhead and the City of Moorhead designating an area for orderly annexation pursuant to Minnesota Statute 414.0325.

e. "Orderly Annexation Area" shall mean that area of the Town legally described as (See Exhibit "B"):

Parcel 1, River Oaks Subdivision, Clay County, Minnesota

Parcel 2, River Oaks Second Subdivision, Clay County, Minnesota

Parcel 3, Daryl O. Emery and Judith F. Emery: All that part of the Northeast Quarter, Section 30, Township 139, Range 48, described as follows: Beginning at the Northeast Corner of River Oaks Subdivision of a portion of the Northeast One-Quarter of Section 30, Township 139 North, Range 48 West of the Fifth Principal Meridian, said Northeast corner being located 738.1 feet south and 1488.12 feet West of the Northeast corner of said Section 30 (the aforementioned distances are measured parallel to the North and East lines of said Section 30); thence South $89^{\circ}51'$ West a distance of 316.24 feet; thence North $0^{\circ}0'$ West a distance of 3.00 feet; thence South $89^{\circ}51'$ West a distance of 50.85 feet; thence North $0^{\circ}0'$ West a distance of 134.00 feet; thence North $89^{\circ}51'$ East a distance of 341.50 feet to a point of intersection with the West Right-of-Way Line of Clay County Highway Number 76; thence Southeasterly along said Highway Right-of-Way to the Point of Beginning. Said tract of land contains 1.09 acres, more or less.

Parcel 4, Dale E. Wold and Evelyn N. Wold: All that part of the Northeast Quarter (NE $1/4$), Section Thirty (30), Township One Hundred Thirty-Nine (139) North, Range Forty-Eight (48) West of the Fifth Principal Meridian described as follows: A tract bounded on the North and West by Second River Oaks Subdivision; bounded on the East by the Westerly right-of-way line of Clay County Highway No. 76; bounded on the South by the North line of a parcel of land heretofore conveyed to O. Frank Cook and Genelle M. Cook, husband and wife, as joint tenants and not as tenants in common, which conveyance is legally described in Book 206 of Deeds, Page 1 on file with the Clay County Register of Deeds; except for that part of Section Thirty (30), Township One Hundred Thirty-Nine (139) North, Range Forty-Eight (48) West, Fifth Principal Meridian, Clay County, Minnesota, described as follows: bounded on the North by the South line of the Second River Oaks Subdivision road; bounded on the West by the Southerly extension of the Easterly line of Lot 37 of said Second River Oaks Subdivision; bounded on the East by the Westerly right-of-way line of Clay County Highway No. 76; bounded on the South by the North line of a parcel of land (Frank Cook's property) described in Book 206 of Deeds, Page 1, on file with the Clay County Register of Deeds,

Except for the following described tract of land:

Bounded on the North by the South line of the Second River Oaks Subdivision road; bounded on the East by the Westerly right-of-way line of Clay County Highway No. 76; bounded on the South by a line 40.00 feet North of and parallel to the North line of a parcel of land (Frank Cook's property) described in Book 206 of Deeds, Page 1, on file with the Clay County Register of Deeds; and bounded on the West by a line 10.00 feet East of and parallel to the Southerly extension of the Easterly line of to 37 of said River Oaks Subdivision.

f. "Property Owners" shall mean the respective owners of the property within the Orderly Annexation Area.

g. "Town" shall mean the Town of Moorhead, organized under the laws of the State of Minnesota.

2. Reason for Annexation: It is specifically found that:

a. Certain properties within the Town abutting upon the City are presently urban or suburban in nature.

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

c. The City has provided or is capable of providing urban services to such properties and is capable of providing additional services to this property to adequately protect the public health, safety, and welfare of the properties.

3. Acceptance by Municipal Board: That the Town and City, upon passage of this Joint Resolution and acceptance by the Municipal Board, confer jurisdiction upon the Minnesota Municipal Board over the various provisions contained within this agreement. The effective date of annexation hereinafter is

defined as the date the Minnesota Municipal Board issues its order approving an annexation.

4. Annexation Date/Taxes: Parcels 1, 2, 3 and 4 (see map marked Exhibit B) shall be annexed to the City upon the date the Minnesota Municipal Board acts on the Joint Resolution and Initiating Resolution. The tax capacity rate of the City will apply to the Orderly Annexation Area upon the effective date of annexation. The City shall, on or before January 15th of each applicable year, remit to the Town in the form of a cash payment the amounts as specified in Exhibit C, to reimburse the Town for property tax revenue foregone as a result of this annexation.

5. Zoning: Parcels 1, 2, 3 and 4 shall be zoned as R-1 Single-Family District consistent with the surrounding area.

6. Septic and/or Well Systems: Any parcel which is presently served or continues to be served by a certifiable septic and/or well system shall not be required by the City of Moorhead to hook up to City sanitary sewer and/or water lines, provided such existing systems have not failed pursuant to Subsection 6(a).

a. Failure of Septic and/or Well Systems: Should a designated health agency at any time determine that a septic and/or well system has failed, then and in that event the septic and/or well system will no longer be considered certifiable and the parties agree the affected property owner is required to abandon said septic and/or well system and hook up to City sanitary sewer and/or water lines.

b. Abandonment of Sewer and/or Well Systems: After connection to municipal sewer, all current septic tanks shall be removed or pumped and crushed and/or filled with approved aggregate material. Abandonment of wells shall be done in accordance with regulations of the Minnesota Department of Health and completed by a licensed well driller. Upon connection to the City water lines and separation from the house water system, existing wells may be used for non-potable water purposes.

7. Special Assessments: All benefitting property owners shall be subject to special assessments based upon those costs and methods of assessment as defined within Exhibit D. All benefitting property owners will be subject to special assessments using customary City methods of assessment for curb, gutter, paving, sanitary sewer, water, storm sewer and connection charges at the time of annexation. Assessments specifically related to the construction and installation of curb, gutter and paving shall be spread over twenty-eight (28) lots with the City, or its transferees being responsible for the assessments on the three (3) lots owned by the City.

8. Deferred Special Assessments: Property owners who continue to use certifiable sewer and/or well systems subsequent to the time of annexation and in conformance to Subsection 6 will in any event be subject to the payment of sewer and water special assessments commencing July 1, 1995. Other than the payment of principal, together with accrued interest thereon and an \$80.00 sewer hook-up fee, there shall be no additional hook-up fee or other special charge or penalty assessed to such property owners.

9. Municipal Services: Upon the effective date of annexation, the City shall provide full municipal services excluding sewer, water and electricity as if it had already been a part of the City. Sewer, water and electric service to be provided as outlined in Section 13.

10. Bike/Pedestrian Path: The City shall require the property owners to provide at no cost to the City, upon the effective date of annexation a fifty (50) foot easement for development of a bike/pedestrian path and for maintenance of the riverbank over the described properties adjacent to the Red River as shown in Exhibit A, except as hereinafter provided. The City shall allow property owners to defer the granting of the aforementioned fifty (50) foot easement for development of a bike/pedestrian path pursuant to the following:

a. The property owner and subject parcel shall comply in all respects to Section 6 including Subsections 6(a) and 6(b) of this agreement.

b. In no event shall any property owner be permitted to hook up to sewer and/or water without having first provided at no cost to the City the aforementioned fifty (50) foot easement for development of a bike/pedestrian path.

c. Notwithstanding Subsections 10(a) and 10(b), in the event the aforementioned fifty (50) foot easement for development of a bike/pedestrian path has not been provided

on or before a date fifteen (15) years following the effective date of annexation, the City reserves any and all rights the City may have to pursue the acquisition of the aforementioned easement.

The transfer of said property from the property owners to the City shall be a transaction between the City and property owners which shall in no way involve the Town. Said bike/pedestrian path will not be installed by the City for a minimum of fifteen (15) years following the effective date of annexation and 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 the City. 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 of land legally described in Subsection 1(e) a minimum of sixty (60) days prior to the start of construction. The City shall enact an ordinance defining and controlling the use of the bike/pedestrian easement which shall 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. City agrees to indemnify and hold harmless the Town and any property owners against, and in respect of any and all liabilities the Town and/or 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" shall mean all claims, demands, third party actions, accounts, causes of action and judgments, known and unknown, developed and undeveloped, discovered and undiscovered, and "liability" shall mean all losses, expenses, obligations, costs, (including defense costs) whether or not reduced to judgment.

11. Clay County Owned Park and Miscellaneous Parcels: City will request Clay County to transfer to the City at no cost, upon execution of the Orderly Annexation Agreement, County owned park land and miscellaneous parcels located in River Oaks Second Subdivision as shown in Exhibit E. Property described as "County owned park land" shall upon transfer to the City be designated as a neighborhood park, and in no event shall be designated and/or developed as a regional park, unless mutually agreed to by the City and a majority of the property owners. Property described as "County owned miscellaneous parcels" upon transfer to the City shall be subject to the City's reservation of a fifty (50) foot easement for development of a bike/pedestrian path and for maintenance of the river bank over its property and shall be utilized according to the following:

- a. Lots 2 and 5, River Oaks Subdivision; W 1/2 of 5, E 1/2 of 6, 10, 12-34, River Oaks Second Subdivision; shall be designated as non-developable open space.

b. Lots W 1/2 of 5, E 1/2 of 6, 10, River Oaks Second Subdivision; shall be equally divided with portions transferred at no cost to the adjacent property owners.

A Joint Powers Agreement specifying terms of the transfer will be negotiated between the City and Clay County. Debris in the park resulting from the Dutch Elm Clean-Up Project will be removed by Clay County solely at County expense on or before June 1, 1990.

12. Sidewalks. The City of Moorhead agrees not to require sidewalks unless petitioned by property owners. If sidewalks are installed upon the petition of the property owners, such improvements shall be assessed to the benefitting property owners pursuant to provisions of the City Code.

13. Utility Services.

a. Right of Way/Street. The City shall require that a forty (40) foot right-of-way with five (5) foot utility easements on each side of the right-of-way will be dedicated to the City at no cost as part of the Final Plat for River Oaks Subdivision and City will install a twenty-eight (28) foot street with parking on one side and mountable curb and gutter, except as hereinafter provided. However, the maximum street width at all points adjacent to the properties owned by Murphy and Triebwasser shall not exceed twenty-four (24) feet with no parking on either side. City and Town acknowledge that the annexation area is an existing developed area and, therefore, right-of-way widths, street design layout, and parking requirements represent a

situation unique only to this area and are not to be construed as setting precedent for any other areas presently within or without the City upon the effective date of this annexation. The street and curb shall be designed in such a manner so as to minimize to the extent possible the differential between the elevation of existing driveways and the proposed street grade. The street shall be installed at an elevation, no lower than two (2) feet below the regulatory flood protection elevation, except as hereinafter provided. The City shall request the Federal Emergency Management Agency (FEMA) to grant a variance as to the height of certain sections of the proposed street so as to minimize the effect of flood water currents on adjacent properties. The City and Town acknowledge that FEMA has sole authority to grant such a variance. Actual dedication of the forty (40) foot right-of-way and five (5) foot utility easements will be a transaction between the City and property owners which in no way involves the Town except that the Town shall consent to any final plat of this area which may be agreed upon between the City and property owners.

b. Sewer Services. The City shall require that the Wold, Emery, and Teigen property owners each dedicate at no cost to the City a 20 foot easement for the construction and installation of a sewer main. An \$80.00 sewer fee will be assessed to all property owners upon hook-up to the sanitary

sewer system. Sanitary sewer lines will be installed approximately in the center of the right-of-way.

c. Electric Service. The Moorhead Public Service Department agrees to negotiate with Red River Valley Electric Cooperative to acquire rights to the service area for the area described in this agreement. During the period of the aforementioned negotiations, the existing electric system will be used. Electric service from Moorhead Public Service will be provided only after Moorhead Public Service agrees to conditions of transfer and the Minnesota Public Utilities Commission approves the change of service territory. City and Town agree that electric service will be provided with no connection or line extension charges to the property owners provided that this agreement be approved by the Town and City on or before August 31, 1989. City and Town also agree there will be no rate differential between the property owners and existing Moorhead Public Service customers in the City of Moorhead. Moorhead Public Service will not replace the existing electric system with an underground system unless the property owners agree to pay for the conversion. Street lights will be installed as per City specifications at no cost to the property owners.

d. Water Main. Water main will be installed in right-of-way/easements and services will be provided to property lines. Curb shut offs will be installed at property line. No interconnection with existing well system

will be allowed. Each property owner shall, upon request for service, obtain a plumbing permit which will include inspection of plumbing systems by the City of Moorhead for code compliance. The water meter and remote metering register will be furnished and installed by Moorhead Public Service at Moorhead Public Service expense and at locations approved by Moorhead Public Service. Property owners will be responsible for installing remote reader wiring to Moorhead Public Service Department specifications.

e. Water Connection Surcharge. City and Township agree that no water connection surcharge will be assessed to the property owners.

14. Final Plat: City and Township agree that a Final Plat of River Oaks Subdivision and River Oaks Second Subdivision, combined with the Wold, Emery, Seigel and City properties, will be executed with engineering fees and associated costs shared proportionately between the City and property owners. Dedication of the bike/pedestrian easement by the property owners will be regarded as the full park land dedication as required in Section 11-4-11-1 of the City Code. City shall record the above plat and this agreement upon its execution in the Clay County Recorder's Office. City, Town and property owners agree that by recording this agreement it is intended that the terms and conditions of this agreement run with the land.

15. Codes: Upon annexation, all parcels and residential dwelling units located thereon within the annexed area will be

required to meet all applicable State building, electrical and plumbing codes. Buildings in existence upon the effective date of annexation may have their existing use or occupancy continued provided that such continued use does not, as determined by the City, represent a life safety hazard.

16. Flood Protection: The City and Town acknowledge that property located within the "Orderly Annexation Area" is subject to periodic flooding and that City will assume no obligation for unique or extraordinary flood protection in this area. Further, property owners acknowledge that flood control measures will be implemented under City's sole discretion consistent with flood control measures implemented in other areas of the City of Moorhead.

17. Modifying/Amending Agreement: The parties to this agreement agree that this agreement shall not be modified or amended, nor shall the stated boundaries be altered unless mutually approved through resolution of each party and acceptance by the Minnesota Municipal Board.

18. Ordering in of Annexation: Upon receipt of the initiating resolution, the Minnesota Municipal Board may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of this Joint Resolution.

19. Town/City Cooperation: That the Town and City resolve to fully cooperate with the Minnesota Municipal Board in connection with this orderly annexation resolution and agreement.

PASSED AND ADOPTED by the Town Board of Moorhead, Minnesota,
this 21st day of August 1989.

APPROVED BY:

E. Robert Olson
E. ROBERT OLSON, Chairperson

ATTEST:

Leland E. Vette
LELAND E. VETTE, Town Clerk

(SEAL)

PASSED by the City Council of the City of Moorhead this 28th
day of August 1989.

APPROVED BY:

Morris L. Lanning
MORRIS L. LANNING, Mayor

ATTEST:

Kaye E. Buchholz
KAYE E. BUCHHOLZ, City Clerk

(SEAL)

James W. Antonen
JAMES W. ANTONEN, City Manager

EXHIBIT C

SCHEDULE OF PAYMENTS BY CITY TO TOWN

| <u>Payable on or Before January 15th</u> | <u>Amount</u> |
|--|---------------|
| 1990 | \$4,840.00 |
| 1991 | 3,630.00 |
| 1992 | 2,420.00 |
| 1993 | 1,210.00 |
| 1994 | -0- |

Exhibit D

SPECIAL ASSESSMENTS

A. Overall Project Costs (Estimated)

| | |
|----------|------------------|
| Sewer | 104,980 |
| Streets | 176,260 |
| Angela's | 11,925 |
| Water | 52,000 |
| | <u>\$345,165</u> |

B. Sewer (Includes Three Injector Pumps)

| | | |
|---------------|---------|------------------------|
| Construction: | 79,530 | Construction Cost |
| | 87,483 | Add 10% Contingency |
| | 104,980 | Add 20% Administration |

Assessment: 104,980/25 Parcels = \$4,199

C. Streets

| | | |
|---------------|-----------|------------------------|
| Construction: | 133,530 | Construction Cost |
| | 146,883 | Add 10% Contingency |
| | \$176,260 | Add 20% Administration |

Assessment: City Share of Cost (3 lots)
 $25 + 3 = 28$
 $176,260/28 = \$6,295$
 $6,295 \times 3 = \$18,885$ City Portion

$176,260(18,885)157,375/25 = \$6,295$

D. Angela's Lift Station

Construction: \$11,925 Construction Cost Allocated to River Oaks

Assessment: \$11,925/25 parcels = \$477

E. Water Main

Construction: \$52,000 Construction Cost

Assessment: \$52,000/25 parcels = \$2,080

F. Plat

Cost: \$10,000
Assessment: \$370
(27 parcels including
Seigel and City-owned
property.)

G. Average Cost: Private Sewer, Water Service, Demo. Existing Septic Tanks

Not Assessed: \$1,500

H. Estimated Total Cost Per Parcel (25 Parcels)

| | |
|---------------------------|-----------------|
| Sewer | 4,199 |
| Streets | 6,295 |
| Angela's | 477 |
| Water | 2,080 |
| Plat | 370 |
| Private Hookups (Average) | 1,500 |
| PARCEL ASSESSMENT | <u>\$14,921</u> |
| & PRIVATE HOOK-UP | |

may\sr\16st

BIKE/PEDESTRIAN EASEMENT

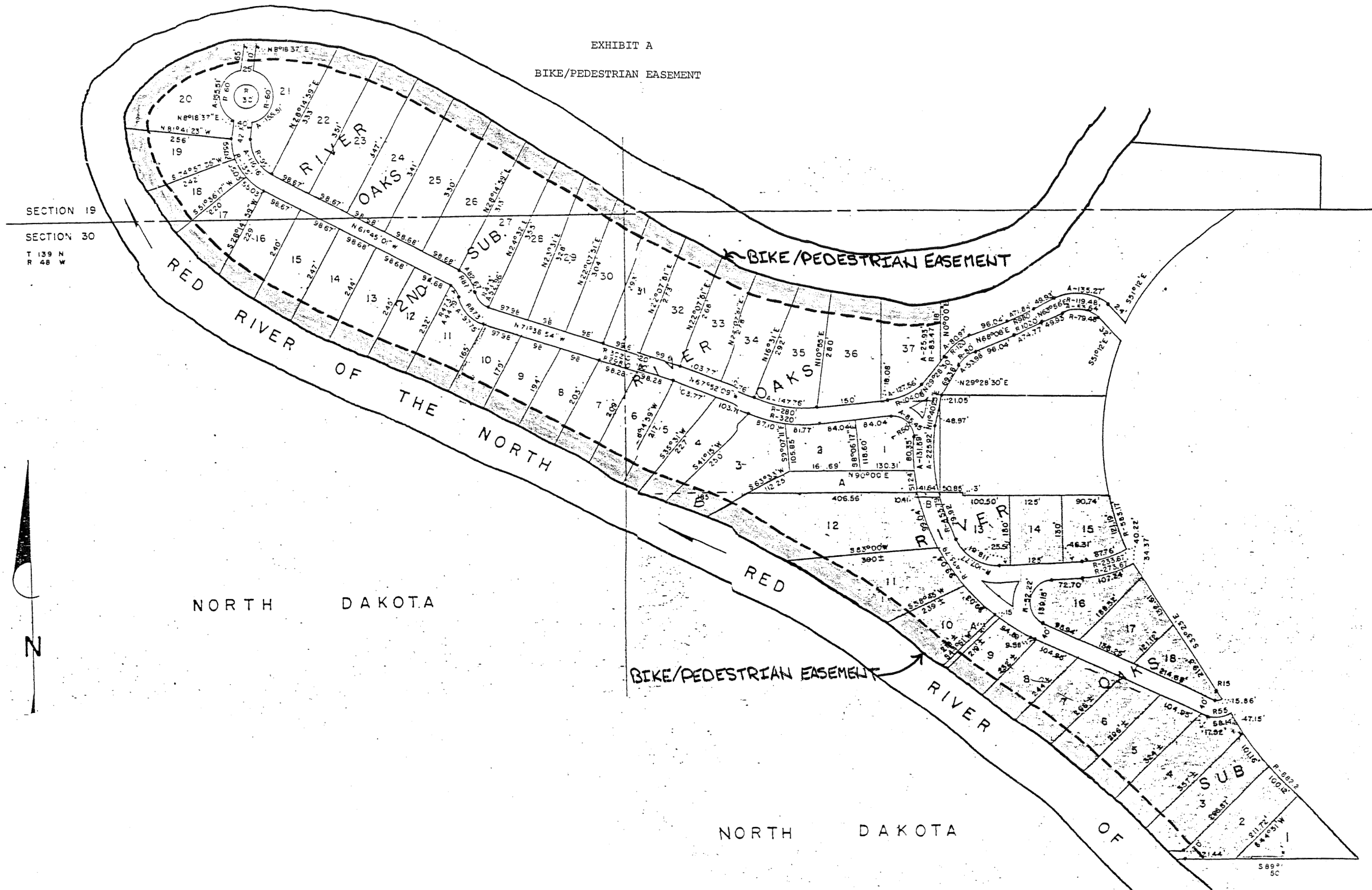


EXHIBIT B

ORDERLY ANNEXATION AREA
AND LEGALLY DESCRIBED PARCELS

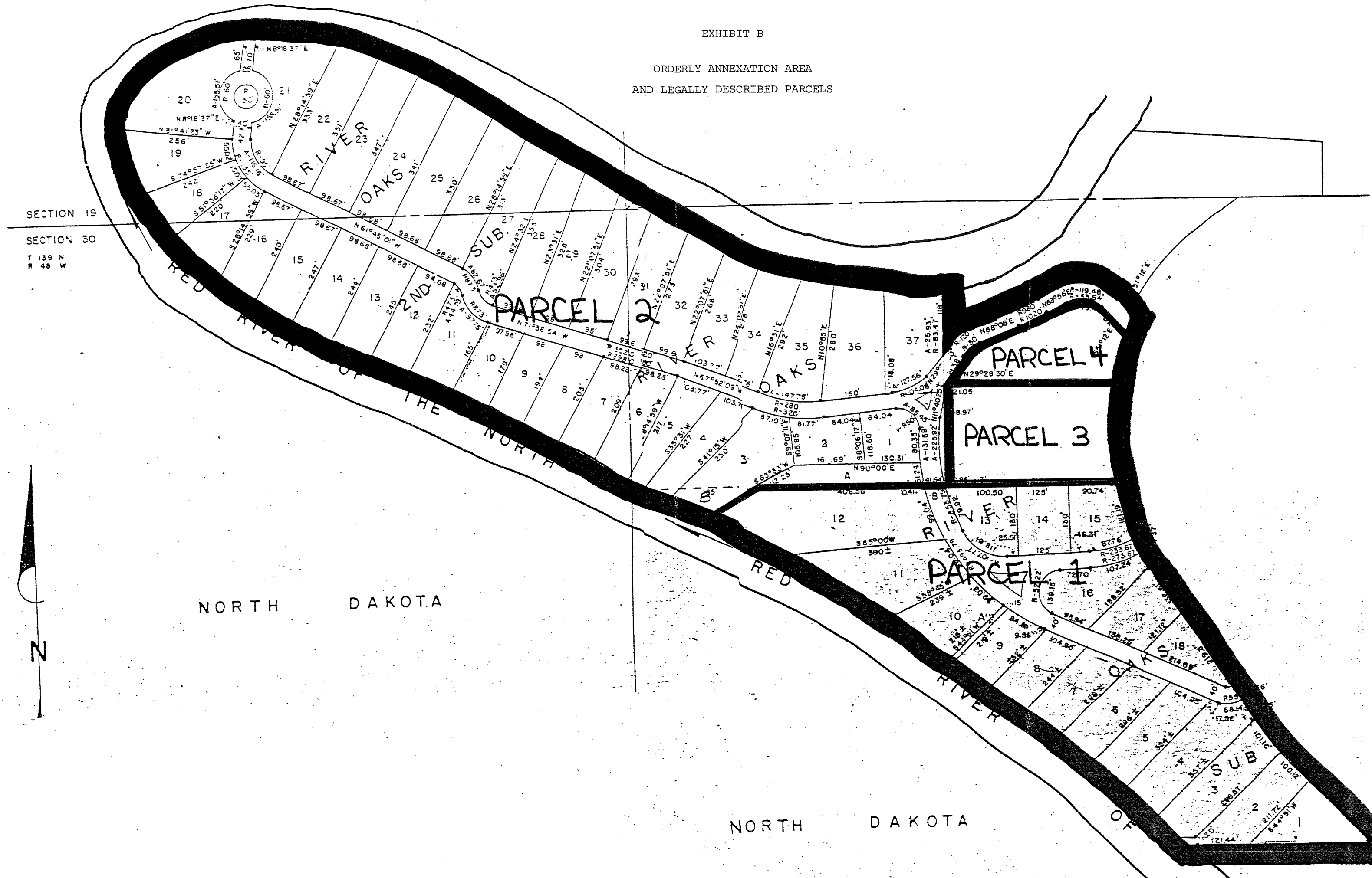


EXHIBIT E

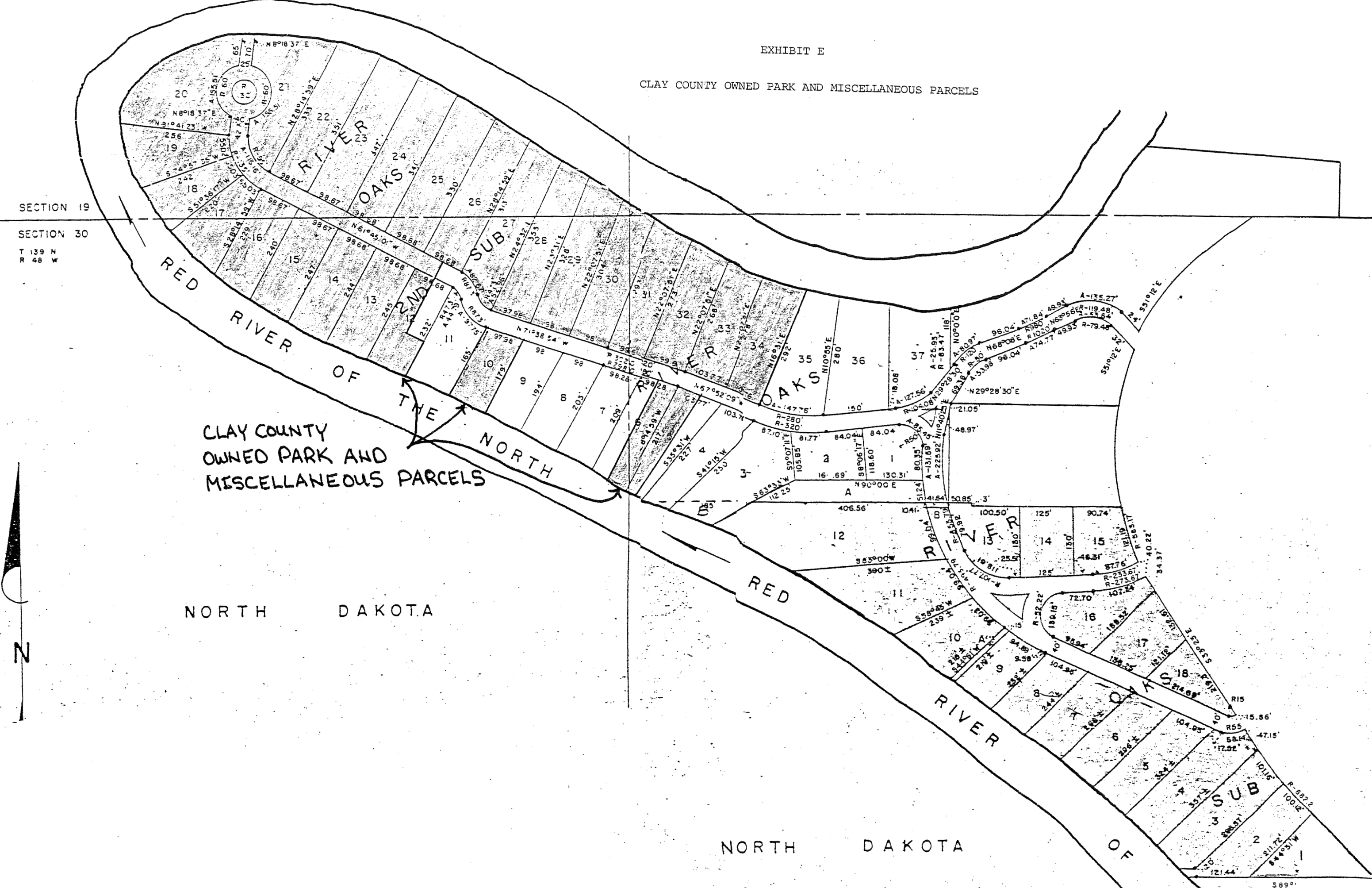
CLAY COUNTY OWNED PARK AND MISCELLANEOUS PARCELS

SECTION 19
SECTION 30
T 139 N
R 48 W

CLAY COUNTY
OWNED PARK AND
MISCELLANEOUS PARCELS

NORTH DAKOTA

NORTH DAKOTA



REC'D. BY
MMB AUG 31 1989



REC'D. BY
MMB. AUG 31 1989

EXHIBIT E

CLAY COUNTY OWNED PARK AND MISCELLANEOUS PARCELS

