

Minnesota Planning Docket No. _____
City of St. Cloud Resolution No. **2001-02-49**
Town of Minden Resolution No. _____

**JOINT RESOLUTION AS TO ORDERLY ANNEXATION
BY AND BETWEEN THE CITY OF ST. CLOUD AND
THE TOWN OF MINDEN**

WHEREAS, the City of St. Cloud (the "City") and the Town of Minden (the "Town") desire to provide for the orderly development and extension of services to areas of the town that are or are about to become urban or suburban in character; and

WHEREAS, owners of approximately 1,000 acres of undeveloped land in Minden Township have been requesting annexation to facilitate the extension of municipal services to accommodate development, and

WHEREAS, the recently adopted St. Cloud Area Joint Planning District Plan has delineated the subject area "A" as a Primary Planned Urban Area and the subject area "B" as part of the Ultimate Service Area for municipal sewer service, and

WHEREAS, the City and the Town wish to encourage development and extension of services to properties in an orderly manner; and

WHEREAS, the City and the Town have reached an agreement which is in the best interests of both citizens of the City and the citizens of the Town.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF ST. CLOUD AND THE BOARD OF SUPERVISORS OF THE TOWN OF MINDEN:

1. Description of Area to be Annexed. That the following described areas are properly subject to orderly annexation under and pursuant to Minnesota Statutes §414.0325, and the parties do hereby designate these areas for orderly annexation as provided by statute:
 - A. That area shown as areas "A" and "B" on the map attached as Exhibit 1. The legal descriptions for the entire area as well as the legal description for the sub-parts A and B are attached as Exhibit 2.
2. Office of Strategic and Long-Range Planning Jurisdiction. That upon approval by the parties, this agreement shall confer jurisdiction upon the Office of Strategic and Long-Range Planning (the successor to the Minnesota Municipal Board pursuant to Minn. Stat. § 414.11, hereinafter the "Board") so as to accomplish said orderly annexation in accordance with the terms of this agreement.

3. No Alterations of Boundaries. The City and the Town mutually state that no alteration by the Board of the boundaries of those areas designated herein for orderly annexation is appropriate.
4. Conditions for Annexation. The City and the Town mutually state that this resolution sets forth all of the conditions for annexation of the areas designated herein for orderly annexation and that no consideration by the Board is necessary, the Board may review and comment, but shall, within thirty (30) days, order annexation, subject to the provisions of paragraphs 5 through 10 herein.
5. Approval Process. The City and the Town mutually state that properties in the areas designated A and B, as shown on Exhibit 1 and legally described on Exhibit 2, or a portion thereof shall be annexed to the City by the Board upon receipt of the City's resolution. The City shall adopt its resolution not sooner than 45 days after submitting a copy of an annexation petition to the Town when either of the following are met:
 - a. Petition requesting annexation signed by owners of 100% of individual parcels of record for agricultural and/or undeveloped properties in an area proposed for annexation.
 - b. Fifty-one percent (51%) of the owners of individual parcels of record for developed property in an area proposed for annexation sign a petition requesting annexation. When a petition for annexation of developed lands involves more than one property, all such properties must be contiguous to each other. Those properties considered to be developed are the residential lots located on County Road 8/3rd Street Southeast that are completely surrounded by the corporate boundary of St. Cloud, and the Point Pleasant, Highland Park, and Shady Corner residential subdivisions. All of the properties considered to be developed are shown on the map attached as exhibit 3. Residential subdivisions of land resulting in a lot(s) of 10 acres or less that are approved subsequent to the effective date of this agreement will be considered developed. Any property utilized for commercial or industrial purposes is considered developed.
 - c. Parcels of land in area B shall only be considered for annexation if they abut the City.
 - d. Annexation of land in area A or B must occur in accordance with the terms of this Agreement.
6. Provision of Municipal Utility Service.
 - a. Extension of sanitary sewer service to annexed properties requesting sewer service will be a high priority by the City.
 - b. Assessment or connection charges to annexed properties will be at the City's officially established rate applicable citywide for improvements of a similar type at the time of benefit and/or connection to said service.
 - c. Annexed properties must connect within one year to readily available sanitary sewer and water services.

- d. The City shall make no assessments or charges to properties for any improvements prior to its annexation.
7. Provision of Other Municipal Services. The City shall be responsible for the provision of all normal and customary municipal services to annexed properties.
8. Revenue Sharing. In respect to annexed properties the City shall annually rebate, for a 9-year period following annexation, a portion of the taxes it collects.

For properties where Tax Increment Financing, tax abatement or similar development tools are used, the Town's present tax capacity rate of 6.248% shall be applied to the City's share of the base tax to calculate the dollars to be returned to the Town.

For all other properties, the dollars to be returned to the Town shall be calculated by multiplying the assessor's market value for the annexed property by the current capacity rates. The assessor's determination of market value shall be determined annually in accord with the normal process. The result of this calculation is a determination of the individual tax capacity value for each property. The tax capacity value for each property will then be multiplied by the Town's present tax capacity rate of 6.248%. The result equals the dollars to be returned to the Town.

The City shall make its payment to the Town once each year, prior to December 1st of each year, based on the monies the City has collected.

9. Tax Step-Up. For platted, residentially developed properties existing in the Town on the effective date of this Agreement the tax rate of the City on the area annexed shall be increased in substantially equal proportions over a six year period to equality with the tax rate on the property already within the municipality.
10. Completion of the Annexation Process. In respect to Area A within the Orderly Annexation area, properties not annexed to the City prior to December 31, 2025 shall be annexed to the City upon adoption of a resolution by the City on or after December 31, 2025.

At such time as 70% of Area A is annexed to the City, the City and the Town agree to meet to discuss the question as to whether Area B should be expanded.

11. Annexation Outside of OA Area. The City will not initiate any annexation action for property outside of the Orderly Annexation area. However, in the event an incorporation proceeding is initiated by any party for any part of Minden Township, the City then has the right to initiate an annexation action for any part of Minden Township provided that right is available to it under law at the time of the action.

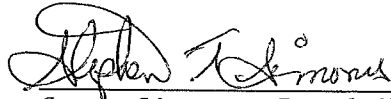
Property owners continue to maintain those options available by law at the time of their action to pursue municipal boundary adjustment outside of the Orderly Annexation area. Until such time as 70% of Area A and B are annexed, the City will

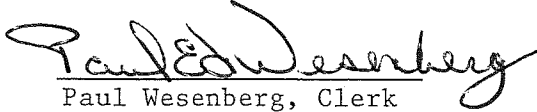
not support any property owner initiated annexation petition for areas proposed for residential development that are located outside of the Orderly Annexation area. The City will not support any property owner initiated petition for annexation of land proposed for non-residential development for a period of 60 days starting from the date of the City's submission of a copy of such a petition to the Town Board of Supervisors for its consideration. The Town and the City mutually agree to meet to consider the appropriateness for the requested annexation and approval of an amendment to the Orderly Annexation Agreement.

12. Costs Associated with OA Agreement. Each party shall pay its own costs incurred in the negotiation, development and implementation of this Agreement.
13. Dispute Resolution. The parties agree to mediate any disputes concerning the interpretation of this Agreement by filing a request for mediation with the Bureau of Mediation Services within 30 days after one party notifies the other party of existence of a dispute under this Agreement.
14. Venue. The venue for all actions concerning this Agreement shall be Benton County, Minnesota.
15. Authorization. The appropriate officers of the City and the Town are hereby authorized to carry the terms of this Joint Resolution and Agreement into effect.
16. Severability and Repealer. All prior resolutions and ordinances of the Town and City, or portions of resolutions and ordinances in conflict herewith, are hereby repealed. Should any section of this Joint Resolution and Agreement be held by a court of competent jurisdiction to be unconstitutional or void, the remaining provisions will remain in full force and effect. In the event of litigation neither the City nor the Town will seek to have any provision of this Agreement declared null and void. If a court issues an order declaring a portion of this Agreement unconstitutional or void, the parties mutually agree to request of that court reformation of the contract and/or, of the legislature, special legislation, both actions being for the purpose of reinstating the original intent of this Agreement.
17. Effective Date. This Joint Resolution and Agreement is effective upon its adoption by the respective governing bodies of the Town and the City, as provided by law.
18. Termination of OA Agreement. This Agreement shall terminate on the later of December 31, 2025 or the date upon which the annexation of all of Area A has been completed. Notwithstanding the termination of this Agreement, the provisions of paragraphs 6,7,8 and 9 of this Agreement shall remain binding after the termination of the Agreement for all properties annexed under the terms of this Agreement.

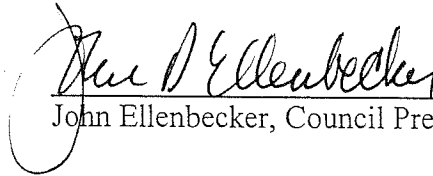
REC'D. BY MAR 06 2001
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Adopted by the Town Board of Supervisors for the Town of St. Cloud the
13 day of ~~February~~ 2001.

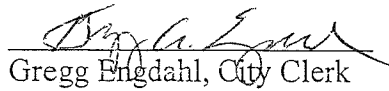

Steve Simones, Board Chair


Paul Wesenberg, Clerk

Adopted by the City Council for the City of St. Cloud the 12th day of February,
2001.


John Ellenbecker, Council President

Attest:


Gregg Engdahl, City Clerk

REC'D. BY
MMS MAR 06 2001

EXHIBIT

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**Description of Orderly Annexation Area
Minden Township, Benton County**

Orderly Annexation Area:

All that part of Sections 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 in Township 36 North, Range 30 West, Benton County, Minnesota, not previously annexed to the City of St. Cloud, described as follows, to-wit:

All that part thereof that lies southerly of the southerly rights-of-way lines of Minnesota Trunk Highway No. 23 and No. 95, and westerly of the thread of the Elk River

Sub-Area B:

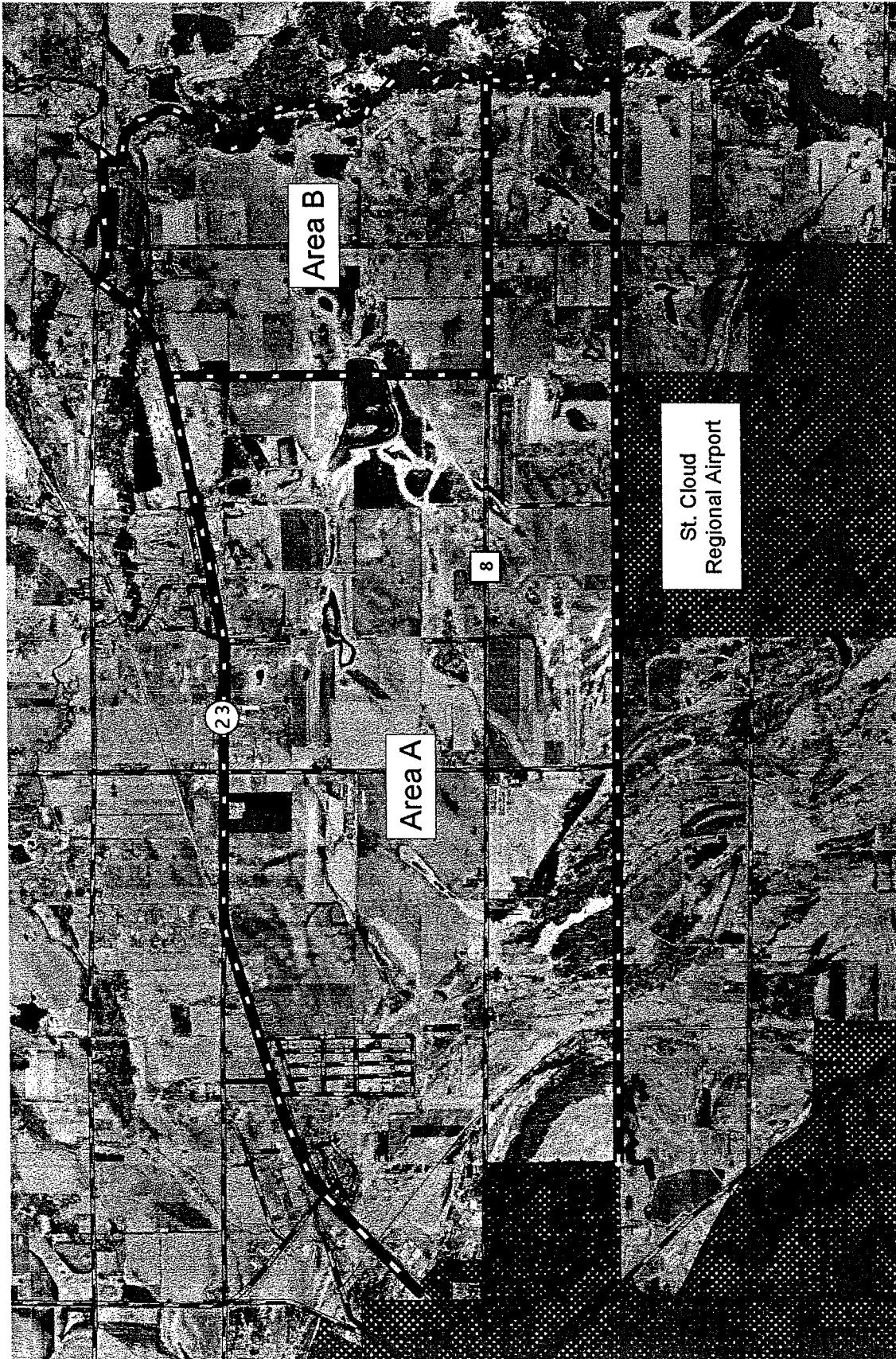
That part of the Orderly Annexation Area situated within Section 26, the East Half of Section 27, the Northeast Quarter of Section 34 and the North Half of Section 35.
Acreage = 893 Acres

Sub-Area A:

The Orderly Annexation Area less and except Sub-Area B.
Acreage = 3,370 Acres

Minden Township Annexation - Areas A and B

REC'D. BY MAR 06 2001



Roads

Orderly Annexation Boundary

St. Cloud Corporate Limits



This map is neither a legally recorded map nor survey and is to be used only for reference purposes. The City of St. Cloud assumes no responsibility for actual or consequential damage incurred as a result of using this data.

Map prepared by the St. Cloud Planning Office, 01/01.

MINDEN OA AREA
DEVELOPED PROPERTIES
AS OF AGREEMENT ADOPTION

REC'D. BY MAR 06 2001
MAB

EXHIBIT

3



Airport
Property

Area B