



APPENDIX B

2008 ORDERLY ANNEXATION AGREEMENT

**JOINT RESOLUTION ESTABLISHING AN
ORDERLY ANNEXATION AGREEMENT BETWEEN
THE CITY OF WATERTOWN AND WATERTOWN TOWNSHIP**

**CITY OF WATERTOWN RESOLUTION NO. 2008-03-04-1
WATERTOWN TOWNSHIP RESOLUTION NO. 03-11-08
MUNICIPAL BOUNDARY ADJUSTMENTS RESOLUTION NO. _____**

WHEREAS, the City of Watertown (the "City") and the Township of Watertown (the "Town"), both located entirely within Carver County, Minnesota, desire to accommodate growth in a cooperative, planned, and orderly fashion; and

WHEREAS, the respective governing bodies of the City and Town have expressed their desire to encourage future development of the designated area described herein, so as to promote the logical and efficient extensions of municipal services and development opportunities, while encouraging the retention of other Town property in agricultural use and increasing the longevity of existing rural residential lifestyles; and

WHEREAS, this joint resolution creating an orderly annexation agreement (the "Joint Resolution") is beneficial to both parties to promote orderly planning and the orderly transition of government within the area proposed for annexation, and establishes the conditions under which such annexations shall take place; and

WHEREAS, the City and Town jointly request the designation of the area described herein as an orderly annexation area and the annexation of the property within the area into the City.

NOW, THEREFORE, BE IT RESOLVED, in consideration of the mutual terms and conditions that follow, that the City and Town hereby enter into this Joint Resolution to provide for the orderly annexation into the City of the property herein described upon the following terms and conditions:

1. Designated Area. The unincorporated property designated for orderly annexation by this Joint Resolution, and subject to its terms and conditions, is described and shown on the map attached as Exhibit A and legally described on the attached Exhibit B (the "Designated Area").
2. Notice of Designation and Meeting. The City and Town shall hold a joint public informational meeting concerning the proposed adoption of this resolution in conformity with Minnesota Statutes, sections 414.031 and 414.0333. The City shall provide at least 10 days notice, published in a newspaper of general circulation in both the City and Town, of the date, time, place, and purpose of the meeting. The notice must clearly identify the proposed boundaries of the Designated Area. The City shall pay the costs of providing the notice and retain proof of its publication.

3. Municipal Boundary Adjustment. Upon approval by the respective governing bodies of the City and Town, this Joint Resolution shall confer jurisdiction upon the Office of Administrative Hearings, Municipal Boundary Adjustments within the Minnesota Department of Administration, or any successor state official, office, or department (the "Director") to accomplish said annexation in accordance with the terms of this Joint Resolution.
4. Review and Comment by the Director. The City and Town mutually agree and state that this Joint Resolution sets forth all the conditions for annexation and that no consideration by the Director is necessary for any annexations occurring within the Designated Area. Additionally, no alteration of the boundaries of the Designated Area or any of the sub-areas by the Director is appropriate. The Director may review and comment, but shall, within 30 days, order the requested annexations in accordance with the terms of this Joint Resolution.
5. Binding Contract. This Joint Resolution is a contract binding upon the City and the Town and is enforceable in district court in Carver County, Minnesota.
6. Effective Date/Applicability. This Joint Resolution is effective on the date it is adopted by the City and the Town, whichever is the second to act on this resolution. Annexations occurring as provided in this Joint Resolution shall be effective upon the issuance of the order by the Director. The provisions of this Joint Resolution shall be binding unless otherwise modified by a joint resolution of both the City and Town as provided herein.
7. Reasons for the Annexation. The reasons for the annexation of the Designated Area include the City and Town's collective determination that (i) the City can more readily provide the types and level of services desired within Designated Area; (ii) the type of development likely to occur the Designated Area is more consistent with development within the City.
8. Annexation Conditions. Properties in the Designated Area shall be annexed to the City by the Director upon receipt of the City's resolution when all of the Joint Resolution's terms and conditions have been satisfied including the following:
 - a. Unless otherwise agreed to by the City and Town, the property to be annexed under this Joint Resolution must be i) located within the Designated Area; and ii) the property to be annexed must have a point of abutment with the City boundary at the time the annexation is proposed.
 - b. The property owner(s) desiring annexation to the City must follow the procedures outlined in this Joint Resolution.
 - c. If the property to be annexed is part of a Platted Residential Subdivision, recorded with the County the petition must be signed by all of the owners of record of more than 50% of the platted lots and the City must annex all of the lots within the recorded Platted Residential Subdivision or none of the lots. If the

property to be annexed is part of a Unplatted Residential Subdivision, the petition must be signed by all of the owners of record of more than 50% of the lots, parcels or properties contained within the Unplatted Residential Subdivision and the City must annex the all of the lots, parcels or properties within the Unplatted Residential Subdivision or none of the lots parcels or properties. An Unplatted Residential Subdivision area is defined as lots, parcels or properties of record with the county used for residential purposes containing five acres or less that are contiguous to each other.

d. A petition for property to be annexed that is not part of a Platted or Unplatted Residential Subdivision must be signed by 100% of the owners of the property proposed to be annexed.

e. In addition to the above methods for annexation to the City, property within the Designated Area which is 100% surrounded by property within the City, may be annexed by the City in the following circumstances:

(i) The property has a sewage treatment system or well that has failed and no longer meets State, County or other regulations for continued operation. A sewage treatment system shall be considered a failed system, if a County approved licensed septic system installer or inspector determines that the septic system located or to be located on the property does not meet the requirements contained in Minnesota Rules, Chapter 7080; that the existing systems cannot be brought into compliance with the Rules; that the system is being used as a holding tank system; and that the City is able to and will serve the property upon its annexation into the City without unreasonable expense on the part of the property owner.

(ii) If the property requests to be connected to either a public sewer or water system.

f. With regard to the property identified on attached Exhibit B as the “Berg” property, unless otherwise agreed to by the Township, said property shall be removed from the designated orderly annexation area unless a portion of said property has received development approval from the City by December 31, 2010.

9. Annexation Procedure. Annexations pursuant to this Joint Resolution shall occur using the following procedure:

a. At least 60 days before filing a petition with the City requesting annexation, the petitioner must notify the City of his or her intent to file a petition requesting annexation. At a minimum, the notice to the City must include the date on which the petitioner intends to file the petition with the City, the names and mailing addresses of all the owners of the property proposed for annexation, and a map showing the property proposed for annexation.

- b. Within 10 days of receiving notice of intent to file a petition requesting annexation, the City shall notify the Town of the proposed annexation.
- c. At least 30 days before the date identified by the petitioner as the date he or she intends to file the petition, the City must notify the petitioner that the cost of electric utility service to the petitioner may change if the land is annexed. The notice must also include the estimate of the cost impact of any change in electric utility services resulting from annexation, including rate changes and assessment.
- d. A petition requesting annexation must be filed with the City no earlier than the intended filing date indicated in the notice of intent to file a petition. The petition must be accompanied by a written certification from the Town that the appropriate property tax reimbursement has been paid to the Town with respect to the property or that payment has been waived by the Town.

The City of Watertown agrees not to initiate annexation, accept or support a property-owner petition for annexation, or process any application for annexation under this Joint Resolution until such time as the City receives written certification from the Town that the Town's Taxation Reimbursement specified in paragraph 13 of this Joint Resolution has been made by or on behalf of petitioner seeking annexation to the City or by the City pursuant to Section 10(e).

- e. The City shall consider the annexation petition at a public meeting. The City shall act on the petition by resolution. A resolution approving annexation shall include a description of the property to be annexed, indicate that no hearing by the Director is required to order the annexation, and shall be forwarded to the Director. The City shall provide a copy of its resolution to the petitioner and to the Town.
 - f. Notwithstanding the foregoing, the City may annex property within the Designated Area under paragraph 8(e) above, by notifying the Town and filing a resolution with the Director including a description of the property to be annexed and the circumstances allowing annexation under the Agreement and that no hearing by the Director is required. Provided, however, that the City receives certification that the Property Tax Reimbursement provided at paragraph 13 has been paid to the Town. The City shall provide a copy of the resolution, upon its adoption to the Town.
10. Provision of Services. Once property is annexed, the City shall provide the property services consistent with those provided other similarly situated properties in the City, with due consideration for the reasonable availability of services to the newly annexed property. Property annexed to the City shall be required to connect to municipal sewer and water services and pay the related costs in accordance with the City's policies, ordinances, and as may otherwise be allowed by law.

11. Land Use Controls. The County's Land Use Controls shall control within the Designated Area; except as follows:

- a. Change in County Controls. In the event the County changes its Land Use Controls from those that exist on the date of this Agreement to be less restrictive with respect to lot size or any other dimensional regulation or permit additional uses either as permitted or conditional uses, the Town and City mutually agree and state that the City shall serve as the "governing body", "planning agency", and "board of appeals and adjustments" for the purposes of Minnesota Statutes, sections 462.351 to 462.364, as amended, and shall have the authority to adopt and enforce the Uniform Fire Code promulgated pursuant to Minnesota Statutes, section 299F.011 within the designated area. The City shall set the schedules for necessary zoning and planning fees within the designated area. Fees that are collected within the designated area shall go to the City as the entity responsible for planning within the designated area.

Unless otherwise agreed to by the Township, the City shall adopt the Zoning Code and Subdivision Regulations of Carver County effective as of the date of this Agreement for all properties located within the orderly annexation area. Any request for zoning reclassification, conditional use permits, and variances within the orderly annexation area shall be subject to the requirements and provisions of the County's ordinances and any other rules, statutes, laws, or ordinances in effect by the County on that date.

Following annexation, the annexed properties shall be subject to the zoning and subdivision controls of the City.

- b. Phased Areas Growth Areas. The City's Land Use Controls shall govern in areas shown on Exhibit B as being within the 2005 to 2010 Growth Area.
- c. 1976 Agreement Annexation Areas. The City's Land Use Controls shall govern in areas shown on the attached Exhibit B which are shown as being within the 1976 Annexation Area pursuant to the terms of Section 5 of the 1976 Agreement.
- d. The Town Board shall appoint one Township resident to serve the City's Planning Commission during the term of this Agreement.

12. Property Taxes; Incremental Imposition of City Rates. Property taxes should be imposed and collected in accordance with the following:

- a. All property taxes collected from property annexed pursuant to this Joint Resolution in the year of annexation shall be paid to the Town. For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the City may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the Town may continue to levy on the annexed area for that levy year, and the City may not levy on the annexed area until the following levy year.

- b. The City agrees that it will increase the property tax rates on annexed land, which is vacant and not a platted lot or parcel, from the Town rate to the City rate in substantially equal proportions over a period of three years.
13. Property Tax Reimbursement. To compensate the Town for the permanent loss of taxable property from Town tax rolls, the petitioner or person acting on petitioner's behalf shall pay the Town a per-acre amount ("Taxation Reimbursement") for all land annexed by petition to the City under this Joint Resolution. Unless agreed otherwise by the Town, payment of the Taxation Reimbursement shall occur prior to the City accepting or processing any application from the petitioner for annexation and shall be calculated as follows:
- a. A Taxation Reimbursement equal to \$500 per acre of property shall be paid to the Town for all property for which an annexation petition is submitted to the City. The City shall not deem as complete any petition for annexation unless accompanied by a certification from the Town that the appropriate Taxation Reimbursement has been paid to it by or on behalf of the owners of the property subject to the petition or that such payment has been waived by the Town.
 - b. The Taxation Reimbursement shall be adjusted annually beginning the year following final approval of this Joint Resolution by a factor equal to the change in the Index, as hereinafter defined, between the rate applicable in the year of final approval of this Joint Resolution and the year of annexation. The adjustment factor shall be applied to the base rate of \$500 per acre. The Index shall be the home sale and median price index for Carver County prepared by the St. Paul Area Association of Realtors. The home sale and median price for 2006 is \$262,000 = 100.0. There shall be no downward adjustment of the acreage charge, notwithstanding any downward change in the Index.
14. Public Improvements. The City does not assume any liability or responsibility for the payment of any debt or other obligation issued or any special assessments imposed by the Town to finance public improvements it constructed within the Designated Area. If property annexed under this Joint Resolution is subject to outstanding special assessments imposed by the Town before the land was annexed, the City shall forward to the Town any such special assessment amounts received by the City with respect to the property.
15. Roads. The City has an Adequate Public Facilities Ordinance, City Code 46.5-1, et seq ("Facilities Ordinance") which generally requires that all new development within the City be provided with adequate public facilities, including roads, before development is permitted. Property that is annexed into the City is subject to and shall be required to comply with the Facilities Ordinance. In addition to the requirements of the Facilities Ordinance, the following shall apply to certain roads.

- a. The City shall cause the following Town roads to be paved with bituminous pavement in accordance with applicable City standards within a reasonable time after the City approves access from adjacent contiguous development to the roads:
- i. Common Street,
 - ii. Newton Avenue,
 - iii. 32nd Street,
 - iv. Quass Avenue, and
 - v. Mill Avenue in the following manner.

The City shall cause the developer to pave the above roads from the point of access to the nearest paved road, or nearest paved portion of said roads. When at least 50 percent of a road has been paved as provided above, the City shall require that the remainder be paved.

- b. Those portions of Township Roads improved by either the City or Developer with bituminous pavement pursuant to the terms of this Agreement shall be maintained by the City at its sole cost and expense. The Township shall continue to maintain those portions of the roads that have not been improved by the City at its sole cost and expense.

- c. The City shall cause the following Town roads to be paved with bituminous pavement in accordance with applicable City standards within a reasonable time after the City approves access from adjacent contiguous development to the roads:
- i. Quarry Avenue,
 - ii. Ridge Street,
 - iii. 30th Street,
 - iv. 31st Street,
 - v. Dream Lane,
 - vi. Hutchinson Road,
 - vii. Penn Street, and
 - viii. Oxford Avenue in the following manner.

The City shall cause the developer to pave the above roads for the entire portion of the road abutting the property. The City shall also cause the roads to be paved from the point of access to the nearest paved road.

- d. For all properties annexed under this Joint Resolution, the City shall require in its developer's agreements that during development (including construction of residences and other structures) all construction traffic shall use Carver County highways or City streets, and that Town roads may be used only when no Carver County highway or City street is available. The City's developer's agreements shall also require that the developer pay the Town for the reasonable cost to repair any road damage that occurs when construction traffic uses Town roads in violation of this provision.

- e. When one-half of a right-of-way is annexed because of annexation of the abutting land, the Town agrees to allow annexation of the other half of the right-of-way or to otherwise give the City jurisdiction over the other half of the right-of-way.
16. Delinquent Taxes. The City agrees that it shall remit all delinquent taxes, charges and assessments collected from any portion of the Designated Area if such taxes or charges were originally payable while the delinquent property remained in the Town. Additionally, when a property no longer qualifies for special tax treatment through Green Acres or other applicable programs such as Agricultural Preserves, CRP, or This Old House, and taxes that were deferred under one of these programs is paid to the City, the City shall remit to Town the amount which was deferred during the time the property was in the Town.
 17. Authorization. The appropriate officers of the City and Town are hereby authorized to carry out the terms of this Joint Resolution.
 18. Periodic Review & Amendments. The City and Town agree to review this Joint Resolution at least once every five years from its effective date until its termination. Any amendments to this Joint Resolution must be by joint resolution of the City and Town, and must be submitted to the Director.
 19. Effective Date and Termination. Unless the parties have agreed to an extension, this Joint Resolution shall terminate on December 31, 2038.
 20. Entire Agreement. The terms, covenants, conditions, and provisions of this Joint Resolution, including the Exhibits A and B which are attached hereto and incorporated herein by reference, shall constitute the entire Joint Resolution between the parties and supersede all prior agreements and negotiations regarding annexation of property within the Designated Area between the parties, specifically including, but not limited to, the 1976 annexation agreement (OA-120 on file with the Office of Administrative Hearing, Municipal Boundary Adjustments) between the City and the Town and any amendment thereto unless otherwise agreed to herein.
 21. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with, the laws of Minnesota.
 22. Dispute Resolution. The City and Town agree to use the following procedure to resolve disputes regarding the interpretation of this Joint Resolution or compliance with its terms and conditions:
 - a. The City and Town officials, or designated staff, will meet at least once to discuss and attempt to resolve the dispute through negotiation.

- b. If the City and Town are not able resolve the dispute through negotiation, the City and Town may mutually agree, in writing, to submit the dispute to mediation and/or binding arbitration.
- c. If the City and Town are not able to resolve their dispute through negotiation or through mediation, if they elected to mediate, either the City or Town may seek relief through initiation of an action in a court of competent jurisdiction.

23. Notices. Any notices required in this Joint Resolution shall be in writing and deemed sufficiently given if delivered in person or 3 days after being sent by U.S. mail, postage prepaid, to the City or to the Town at the following addresses:

- a. As to the City: City of Watertown
309 Lewis Avenue South
Watertown, MN 55388
Attn: City Administrator
- b. As to the Town: Watertown Township
3580 County Road 10 N.
Watertown, MN 55388
Attn: Town Clerk

or at such other addresses as either party may give notice regarding to the other party pursuant to this section 23.

24. Severability. A determination that a provision of this Joint Resolution is unlawful or unenforceable shall not affect the validity or enforceability of the other provisions herein. Provided, however, that in the event that the provisions of paragraph 13 are found to unenforceable by the final judgment of a Court and exhaustion of all appeals, at the option of the City, the parties shall meet and negotiate and an amendment to this Agreement that will provide the same revenue to township as is being provided by paragraph 13 of this agreement. The Parties shall have 90 days to negotiate such a provision from the date either party notified the other of the legal determination that the provisions of paragraph 13 are unenforceable. During the negotiation period the City agrees not to annex any property pursuant to this Agreement. In the event that the City elects not to negotiate such a provision, this Agreement shall be terminated effective the date of such notice by the City. Further, in the event the City elects to not negotiate the parties Joint Resolution as to Orderly Annexation, dated May 3, 1976 (OA-120 on file with the Office of Administrative Hearing, Municipal Boundary Adjustments) and any amendments thereto on file with the Office of Administrative Hearing, Municipal Boundary Adjustments shall be reinstated by the Parties by filing a new Joint Resolution with the Director consistent with the terms of the 1976 Agreement

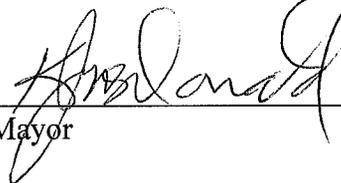
25. Repeal of Prior Agreements. Except as provided in paragraph 24 above, any prior Agreement or Joint Resolution existing between the parties and affecting the property described in the attached Exhibits including, but not limited to, the 1976 Orderly

Annexation Agreement (OA-120 on file with the Office of Administrative Hearing, Municipal Boundary Adjustments) and any amendments thereto shall be considered repealed upon the effective date of this Joint Resolution.

26. Headings. Headings are included solely for the purpose of reference and shall not be interpreted as a substantive provision of this Resolution.

27. No Further Annexation. During the term of this Joint Resolution, the City shall not annex any property from the Town except as set out in this Joint Resolution. Further, the City will not initiate annexation for, nor accept or support any property owner initiated annexation petition for areas proposed to be developed that are located outside of the areas described within Exhibit A, unless otherwise agreed to by the City and the Town. It is the intent of the parties that this Joint Resolution set forth the exclusive geographical boundaries of land which may be annexed and set the exclusive procedures under which annexation from the Town to the City may occur during the term of this Joint Resolution. Unless otherwise agreed to by the City, the Town agrees not to enter into any Orderly Annexation Agreement with its neighboring cities that is inconsistent with this Joint Resolution.

Approved this 4th day of March, 2008, by the City of Watertown.



Mayor



Clerk

Approved this 11 day of March, 2008, by Watertown Township.



Chairperson



Clerk



**EXHIBIT A
"Designated Area"**

Legend

- 2030 Growth Boundary
- City Boundary
- Parcels in City Limits
- Properties in 1976 OAA
- Phase 2005-2010
- Future Phase

Note: Numbers correspond with legal description

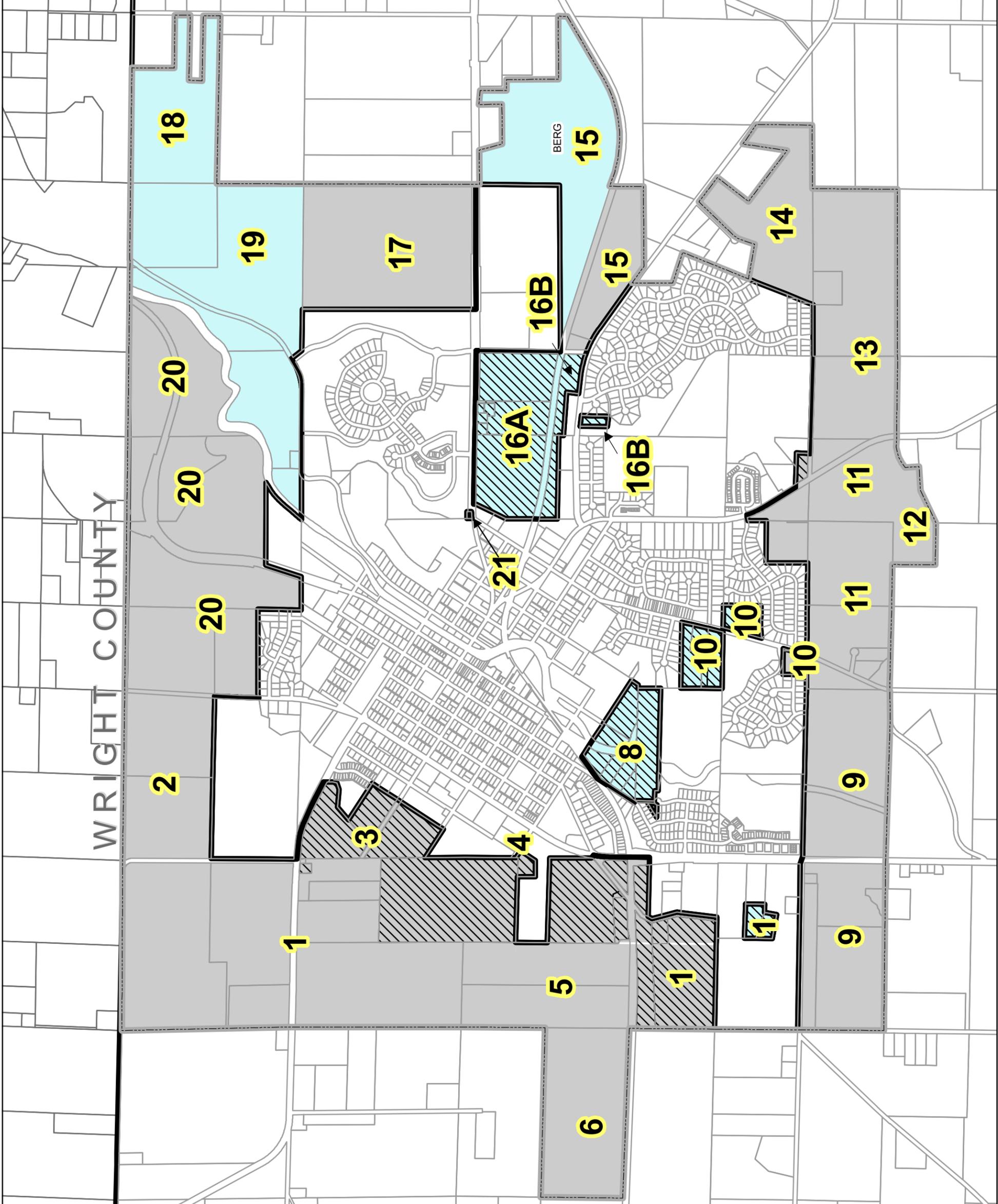
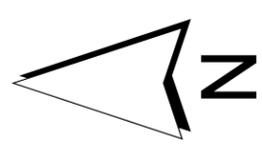




EXHIBIT B "Designated Area"

Legend

- 2030 Growth Boundary
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