

INTERGOVERNMENTAL RELATIONS COMMITTEE

13-0028R

JOINT RESOLUTION OF TOWNSHIP OF MIDWAY AND CITY OF  
DULUTH DESIGNATING TOWNSHIP IN NEED OF ANNEXATION AND  
APPROVING AN ORDERLY ANNEXATION AGREEMENT.

TOWNSHIP AND CITY PROPOSAL:

RESOLVED, that pursuant to the provisions of Minnesota Statutes Section 414.0325, the board of supervisors of the township of Midway (the "Township") and the city council of the city of Duluth hereby designate the township of Midway, as the same is described in the Orderly Annexation Agreement between said Township and said city, a copy of which is on file in the office of the City Clerk as Public Document No. \_\_\_\_\_, to be in need of orderly annexation; and

RESOLVED, that the proper Township and the proper city officials are hereby authorized to enter into the said Orderly Annexation Agreement governing the conditions for and the timing of the annexation of property in the township by the city and governing other issues pertaining to property in the township during the interim; and

RESOLVED, that the Township clerk and the city clerk are hereby requested and directed to send copies of this resolution and of the executed Orderly Annexation Agreement to the chief administrative judge of the Minnesota state office of administrative hearings as provided for in Minnesota Statutes Chapter 414; and

RESOLVED, that this resolution shall go into effect only after its approval by both the Township and the city council of the city of Duluth.

THIS RESOLUTION adopted by the Board of Supervisors of the Township of Midway this 14<sup>th</sup> day of January 2013.

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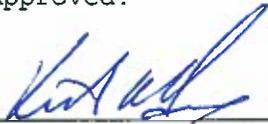
Township Chairperson

Attest:

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Township Clerk

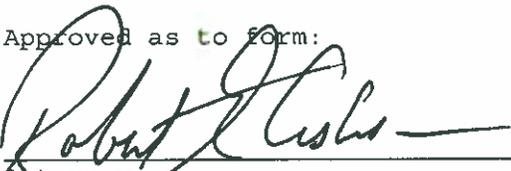
Approved:

  
\_\_\_\_\_  
Department Director

Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

ATTY REA:db January 4, 2013

STATEMENT OF PURPOSE: The purpose of this resolution is to is to approve, with Midway Township, the designation of the Township as appropriate for orderly annexation and approving an Orderly Annexation Agreement to address the issues of annexation with the Township.

AGREEMENT FOR ORDERLY ANNEXATION BY  
AND BETWEEN THE CITY OF DULUTH  
AND THE TOWN OF MIDWAY

THIS ORDERLY ANNEXATION AGREEMENT (“Agreement”) entered into this day of January 2013 by and between the TOWNSHIP OF MIDWAY, a governmental township under the laws of the State of Minnesota, hereinafter referred to as “Town”, and the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota, hereinafter referred to as “City”, pursuant to the authority of Minnesota Statutes Section 414.0325 (the “Statute”).

WHEREAS, the City and the Town desire to provide for the orderly development of areas of the Town that are or are about to become urban or suburban in character; and

WHEREAS, the City and the Town wish to encourage development and extension of services to properties in an orderly manner as the need for and opportunity for further development become prudent and beneficial to the Town, to the City and to the region; and

WHEREAS, the City and Town wish to discourage premature development of rural property in the Town until such time as the that development is appropriate and municipal services are available to ensure that growth occurs in an orderly manner; and

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

NOW, THEREFORE, the Town and the City hereby mutually agree to enter into this Agreement for the orderly annexation of property within the Town subject to the following terms and conditions:

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 the “Orderly Annexation Area”):

A. That areas set forth on the map attached map hereto as Exhibit A and legally described on attached Exhibit B, hereinafter jointly and severally referred to as “Parcel I”.

B. That area of the Township which is the subject of litigation which case bears District Court File Number 69DU-CV-12-520 in the District Court of the Sixty Judicial District for St. Louis County, Minnesota and Appellate Court Case Number A12-1272 in the Minnesota State Court of Appeals, hereinafter referred to as “Parcel II”.

C. That area set forth on the map attached hereto as Exhibit C and legally described on attached Exhibit D, provisionally including the area described in Subparagraph B above as hereinafter referenced in Paragraph 6 below, all hereinafter referred to as “Parcel III”.

2. Municipal Board Jurisdiction. That upon approval by the parties, this agreement shall confer jurisdiction upon the Office of Administrative Hearings (the “Office”) as provided for in Subdivision 1. (c) of the Statute 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 Office of the boundaries of those areas designated herein for orderly annexation is appropriate as provided for in Subdivision 1 (g) of the Statute.

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 Office is necessary as provided for in Subdivision 1 (h) of the Statute. The Office may review and comment, but shall, within thirty (30) days, order annexation, subject to the provisions of paragraph 5.

5. Annexation of Tract I of the Orderly Annexation Area. The City and Town mutually state that a majority of the properties in Parcel I of the Orderly Annexation Area as shown on Exhibit A and legally described by Exhibit B, are currently owned by the City and are appropriate for annexation by Ordinance and agree that the City may annex the property within said Parcel I at such time as it deems appropriate.

6. Inclusion of Parcel II Area: The portion of the Orderly Annexation Area referenced as Parcel II in Subparagraph B of Paragraph 1. above is the subject of an annexation ordinance of the City of Proctor pursuant to Minnesota Statutes Section 414.033, which annexation is being contested by Township and is currently under appeal to the Minnesota State Court of Appeals. This Orderly Annexation Agreement shall be deemed to include said Parcel II property unless and until there is a final court determination that the Parcel II property has been annexed to the City of Proctor; upon such a determination becoming final, the Parcel II property shall be deemed to be excluded from the Orderly Annexation Agreement.

7. City Not to Initiate Annexation. The City will not initiate annexation of any property within Parcels II or III of the Orderly Annexation Area during the term of this orderly annexation agreement unless and until said property meets both of the following criteria:

A. The density of population and development in the area to be annexed becomes more characteristic of urban or suburban development than of rural development.

B. Transportation or utility infrastructure in and through the area to be annexed is best provided by the City.

8. Property Taxes. Unless and until annexed to the City in accordance with the terms of this Agreement, the Parcel II and III property shall continue to be taxed by the Town in the same manner as said property is taxed as of the date of this Agreement. Upon the annexation of all or any portion of the Parcel II property by the City, such property shall thereafter be taxed in the same manner and at the same rates as are then applicable to other properties of similar tax classifications within the City.

9. Planning and Zoning. Subject to the following, planning and zoning in the Town shall continue to be governed by Midway comprehensive Plan: 2008 Update/an evolving Tradition” and ordinances adopted pursuant thereto. Any changes to the comprehensive plan for the Town or to ordinances related thereto shall be made by a Joint Planning and Zoning Commission pursuant to the authority of Subdivision 5 of the Statute except that such Commission shall consist of three members appointed by the Town and three members appointed by the Mayor of the City and approved by its City Council, and no action by said commission shall be deemed to have been approved except on the vote of at least four (4) of its members.

10. Utilities. City has available within its boundaries water and natural gas utilities which could be extended to serve various properties within the Town as the need therefore becomes existent subject to such extensions becoming financially viable based on that demand. City agrees to use its best efforts to support future appropriate development of properties in the Town through such appropriate extensions of utility services.

11. Term of this Agreement. This orderly annexation agreement and its terms terminate on January 31, 2023; unless terminated before such time by resolution of the parties. Notwithstanding this provision, this agreement shall automatically extend to January 31, 2033, unless in 2023, prior to December 31, 2023, either party delivers to the other and to the Office, a written notice of termination in which case this agreement expires on January 31, 2023.

12. Services to Annexed Property. Upon annexation of any of the property in the Orderly Annexation Area as described in Paragraph 1. above by City, City agrees that such annexed property shall be provided with police, fire, emergency services and other municipal services in the same manner and to the same extent as other similarly situated properties located in the City.

13. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

CITY OF DULUTH, a Minnesota  
Minnesota municipal corporation

TOWNSHIP OF MIDWAY, a Minnesota  
Township

By: \_\_\_\_\_

It's Mayor

By: \_\_\_\_\_

Board Chairperson

Attest:

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City Clerk

Attest:

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Town Clerk

Approved:

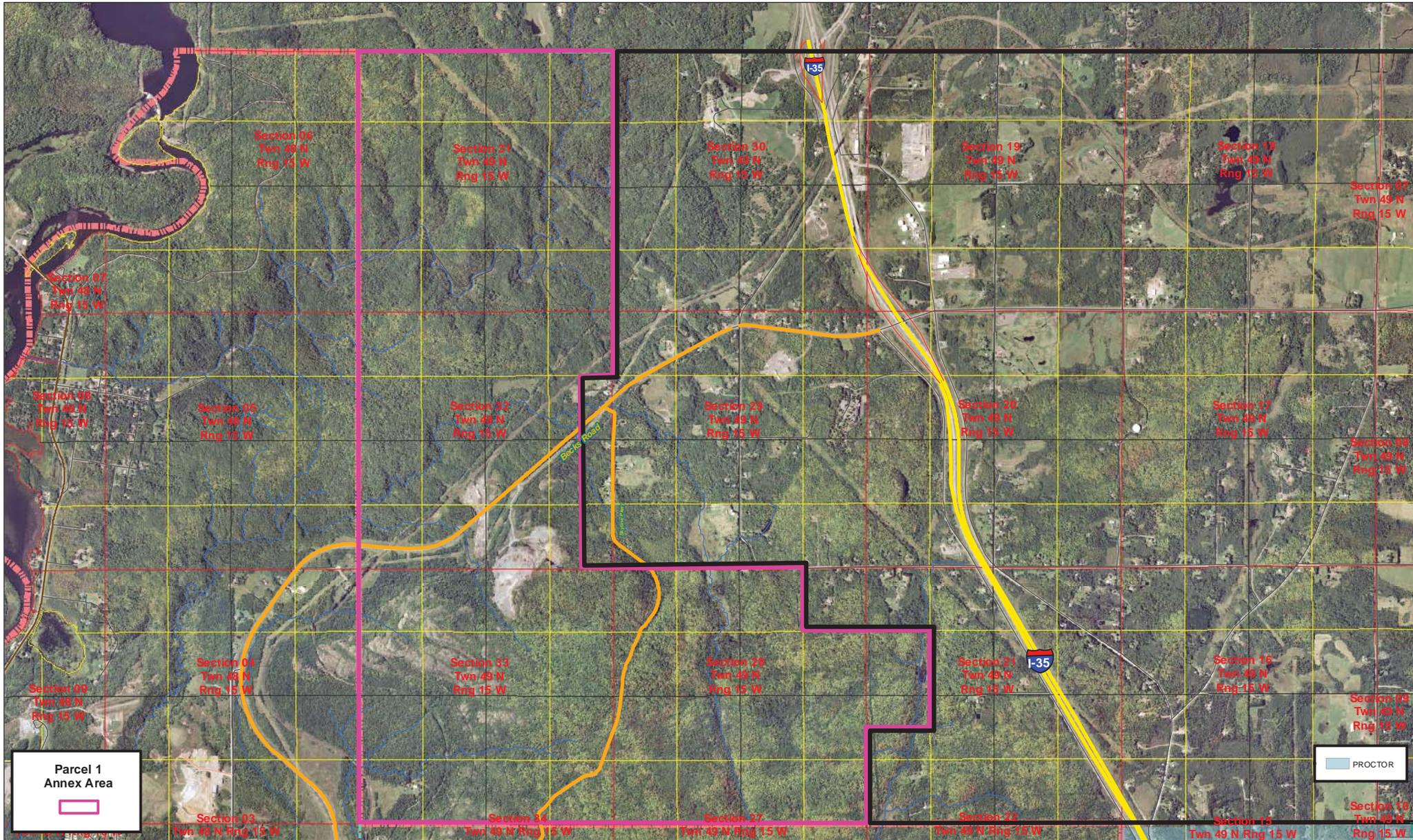
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City Attorney

Countersigned:

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City Auditor



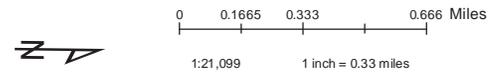
**Parcel 1  
Annex Area**



PROCTOR

The City of Duluth has tried to ensure that the information contained in this electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing is not a legally recorded map nor a survey and is not intended to be used as one. The drawing data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of the information contained within. The data provided is intended for internal use only by the requesting party. Any use other than that described or intended in the contract must be authorized by the City of Duluth. Please contact the City of Duluth at: Management Information Systems, Rm 210a City Hall, 411 W 1st St, Duluth, MN 55802.

**Exhibit A - Parcel 1**



Printed: 1/9/2013



McAvery Fox Williams Co.

## **Exhibit B**

### **Parcel I Legal Description**

That part of Township 49 North, Range 15 West of the 4<sup>th</sup> Principal Meridian as described:

Southeast Quarter of Southwest Quarter of Section 21;

West Half of Southwest Quarter of Southeast Quarter of Section 21;

All of Section 28, except the Northwest Quarter of the Northwest Quarter;

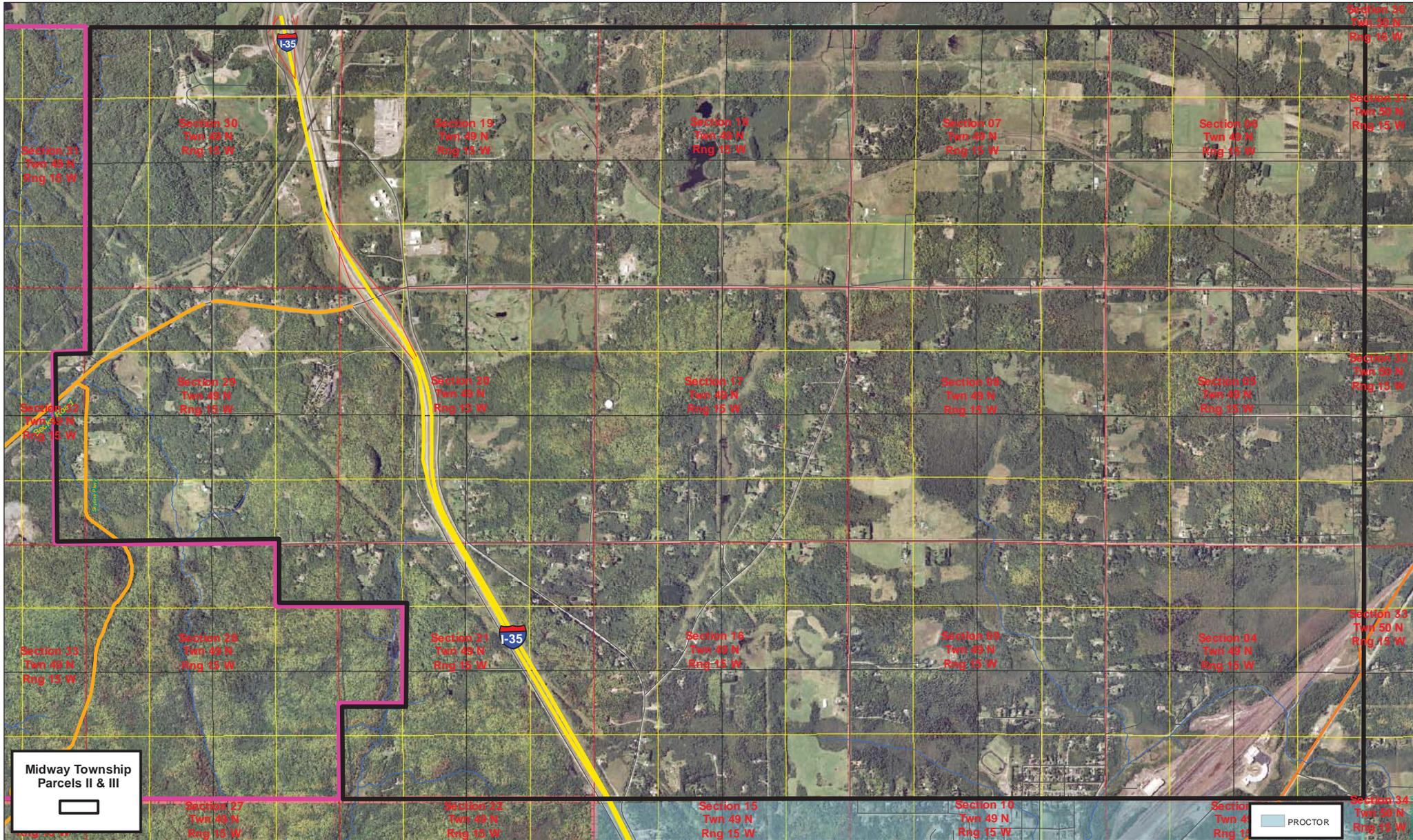
South Half of Southeast Quarter of Southwest Quarter of Section 29;

South Half of Southwest Quarter of Southeast Quarter of Section 29;

South Half of Southeast Quarter of Southeast Quarter of Section 29;

North Half of Southeast Quarter of Southeast Quarter of Section 29 within a 200.00 foot wide strip, center line of said strip is Skyline Boulevard as exists in year 2012;

And all of Sections 31, 32 and 33.



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## Exhibit C - Parcel II & III



0 0.1665 0.333 0.666 Miles

1:21,099 1 inch = 0.33 miles

Printed: 1/9/2013



## **Exhibit D**

### **Parcels II and III Legal Description**

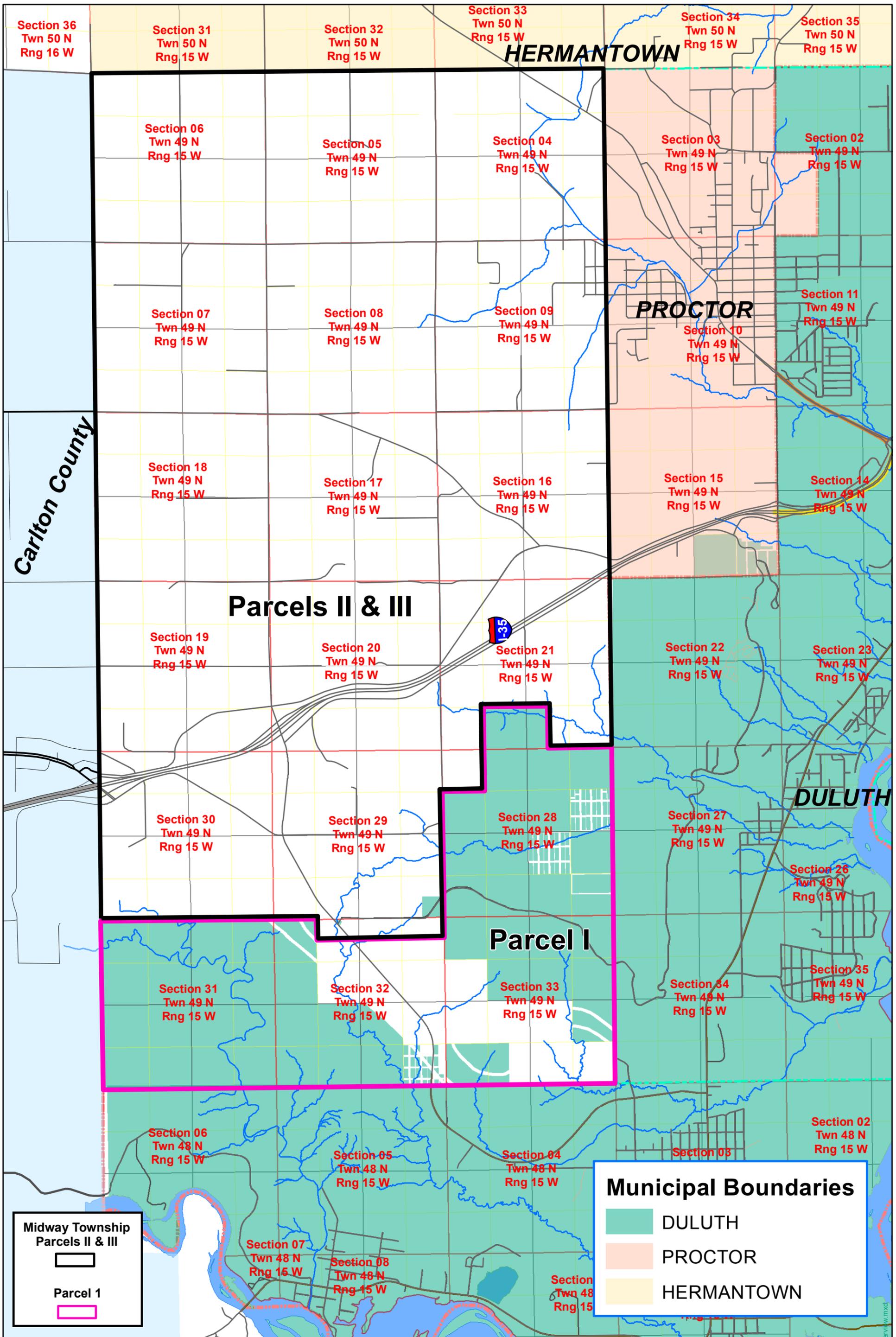
That part of Township 49 North, Range 15 West of the 4<sup>th</sup> Principal Meridian as described:

All of Section 21, except the Southeast Quarter of Southwest Quarter and the West Half of Southwest Quarter of Southeast Quarter;

Northwest Quarter of the Northwest Quarter of Section 28;

All of Section 29, except South Half of Southeast Quarter of Southwest Quarter and the South Half of Southwest Quarter of Southeast Quarter and the South Half of Southeast Quarter of Southeast Quarter and the North Half of Southeast Quarter of Southeast Quarter within a 200.00 foot wide strip, center line of said strip is Skyline Boulevard as exists in year 2012;

And all of Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20 and 30.



Carlton County

HERMANTOWN

PROCTOR

DULUTH

Parcels II & III

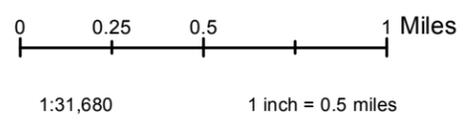
Parcel I

**Municipal Boundaries**

- DULUTH
- PROCTOR
- HERMANTOWN

**Midway Township  
Parcels II & III**

**Parcel I**



Orderly Annexation  
Agreement Property

Printed: 1/10/2013



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