

TOWN OF NEW MARKET
CITY OF ELKO NEW MARKET

IN THE MATTER OF THE JOINT
RESOLUTION OF THE TOWN OF
NEW MARKET AND THE CITY OF ELKO
NEW MARKET, DESIGNATING AN
UNINCORPORATED AREA AS IN NEED
OF ORDERLY ANNEXATION AND
CONFERRING JURISDICTION OVER
SAID AREA TO THE DEPARTMENT OF
ADMINISTRATION, BOUNDARY ADJUSTMENT
OFFICE, PURSUANT TO M.S. §414.0325

JOINT RESOLUTION

The Township of New market and the City of Elko New Market jointly agree to the following:

1. **Filing of Joint Resolution.** Upon execution by the respective governing bodies of the City and Township, the City shall file this Joint Resolution with Minnesota Planning (or successor agency).
2. **Petition.** All of the property owners of the Subject Property described herein have petitioned the City for annexation. The Subject Property lies entirely within Scott County, State of Minnesota, and no portion thereof is currently included within the corporate limits of any incorporated municipality.
3. **Purpose.** That the purpose of the annexation of the Subject Parcels is to facilitate the development of a portion of the parcels to urban densities and to provide urban services, including city sewer and water services.
4. **Designation of Orderly Annexation Area.** Township and the City hereby establish and Orderly Annexation Area ("OAA") as authorized by Minnesota Statute §414.0325, subd. 1, which property abuts the eastern border of the City, is approximately 200 acres and is legally described on the attached Exhibit "A". See Map of OAA attached as Exhibit B. In the event that there are errors, omissions or any other problems with the legal description or mapping provided in Exhibits A and B in the judgment of Minnesota Planning, the parties 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 Minnesota Planning as necessary to make effective the annexation of said area in accordance with the terms of this Joint Resolution.
5. **Informational Meeting.** City and the Townships, following due notice thereof and in accordance with Minnesota Statutes §414.0325, conducted a joint informational meeting concerning this proposed orderly annexation agreement on December 4, 2007.
6. **Interim Status.** All properties within the OAA shall remain in the Township until annexed to the City in accordance with the terms of this Joint Resolution.
7. **Annexation Procedure & Phasing:** Property lying within the OAA shall be annexed by the City in accordance with the procedures outline in this paragraph:
 - A. **Annexation.** The annexation in the Area shall be at the initiation of the Property owners and may include a portion or all of the property with in the OAA.
 - B. **Timing.** Property within the OAA may be annexed on the conditions as set forth below by the City filing an Annexation Resolution with Minnesota Planning (or is successor agency) at any time after the following:
 1. Property owner application for annexation to the City;

2. Execution of a pre-development agreement by the City and the Owners of the Property, within the OAA;
3. Extension of the Metropolitan Council Interceptor to the City and the Interceptor being on-line and operational;
4. The City entering into a contract for service with the Metropolitan Council for the Interceptor, if required;
5. The City determining that the proposal does not constitute a premature subdivision in any other respect.

8. Upon receipt of an annexation Resolution as provided herein, Minnesota Planning may review and comment, but shall within thirty (30) days of receipt of said resolution and copy of this Joint Resolution, order the annexation of the area designated in the Annexation Resolution in accordance with the terms and conditions of this Joint Resolution. The City and Township agree that no alteration of the stated boundaries as described in the Joint Resolution is appropriate, that no consideration by the Minnesota Planning is necessary and that all terms and conditions for annexation are provided for in this Joint Resolution. Upon receipt of the Annexation Order, the City shall provide a copy to the Scott County Auditor.

9. **Taxation.** If the annexation becomes effective on or before August 1 of any year, the City may levy on the annexed area beginning with that year. If the annexation becomes effective after August 1 of any year, the Town may continue to levy on the annexed area for that year, and the City may not levy in the annexed area until the following year. Within 30 days of the date of an Annexation Order or any portion of the Subject Property, the Developer shall pay to the Township an amount equal to \$1,500.00 per acres of annexed property based on the net acreage, excluding wetlands and right of way required for the I-35 Interchange and County Road 2. Differential taxation under M.S. §414.035, or reimbursement under M.S. §414.036 is not required.

10. **Term of Joint Resolution/Amendment.** This Joint Resolution shall be in full force and effect immediately upon the document being fully executed by both parties hereto, and shall terminate according to its terms. The orderly annexation agreement memorialized in this Joint Resolution may be terminated earlier by mutual, written joint resolution of the City and Township. If City Services of water, and sanitary sewer have not been fully provided to the areas described in this Agreement within three years from the execution date of this Agreement either party may apply to de-annex the property from the City.

11. **Governing Law.** This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.

12. **Severability:** In the event that any portion of this Joint Resolution is declared null and void or unenforceable by a court of law, the validity of the remaining terms and provisions shall not be affected and the Joint Resolution shall be construed and enforced as if the Joint Resolution did not contain the particular term or provision held to be invalid. The City and Township agree to implement the procedures under Paragraph 16 to correct any such provision that was stricken.

13. Responsibility for Costs. The City and Township shall pay their own respective attorney and planner fees and any other costs related to the review of this document.

14. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution, including the present and all future attachments or exhibits, 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.

15. Resolution of Disputes. If there is a disagreement as to the interpretation or implementation of the Joint Resolution, the City and Township shall implement the below-outlined dispute resolution procedures in the following sequence:

A. Negotiation: Representatives of the City and Township will meet a minimum of one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.

B. Mediation. If negotiation is not successful, parties shall participate in a minimum of one (1) mediation session with a mutually agreed upon mediator to resolve the dispute.

C. Binding Arbitration/Adjudication. If mediation is not successful, the parties may agree to submit their respective grievances to binding arbitration or may seek relief through initiation of an action in a court of competent jurisdiction, which may include, but not be limited to specific performance to compel the performance as outlined in this Joint Resolution. In addition to the remedies afforded to the parties through law and equity, the Court shall have the authority to award reasonable attorney's fees, costs and expenses to a party found to be in violation of the terms of this Agreement.

16. Heading and Captions: Headings and Captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution for orderly annexation.,

TOWNSHIP OF NEW MARKET

Passed and adopted by the Town Board of the Town of New Market on this the ___ day of _____, 20__.

By: _____
_____, Town Board Chair

Attest: _____
_____, Town Board Clerk

CITY OF ELKO NEW MARKET

Passed and adopted by the City Council of the City of Elko New Market on this the ___ day of _____, 20__.

By: _____
_____, Mayor

Attest: _____
_____, City Clerk

EXHIBIT "A"

Legal Description of Subject Property:

LEGAL DESCRIPTION

The East Half of the Southeast Quarter (E 1/2 of SE 1/4) of Section Twenty-three (23), Township One Hundred Thirteen (113), Range Twenty-one (21), except the Highway Right of Way, and except that part thereof lying Southerly of County State Aid Road No. 2 and Westerly of State Highway No. 35w.

And:

All that part of the East Half of the Northeast Quarter (E 1/2 NE 1/4) of said Section Twenty-three (23), lying South of the South line of the Right of Way of the Chicago, Milwaukee, St. Paul and Pacific R.R. Company, except Highway Right of Way, all of the aforesaid land lying and being in Scott County, Minnesota;

Also:

The East 345.89 feet of the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4), Section Twenty-three (23), Township One Hundred Thirteen (113), Range Twenty-one (21), as measured perpendicular to the East line thereof and lying North of Scott County State Aid Road No. 2, Scott County, Minnesota, said parcel contains 10.00 acres;

Also:

The West Half of the Southeast Quarter (W 1/2 of SE 1/4) and the Northeast Quarter of the Southwest Quarter (NE 1/4 of SW 1/4), all in Section Twenty-three (23), Township 113, Range Twenty-one (21), except railroad right-of-way thereon, and excepting therefrom the following described tract:

That part of the West 250 feet of the South 300 feet of the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE 1/4) of Section Twenty-three (23), Township One Hundred Thirteen (113) North, Range Twenty-one (21) West;

Also:

All that part of the abandoned right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad across the above described tracts, the centerline of the railroad track as shown in Scott County Documents # 181948, 181949, and 181950.

AREAS:

- 1) TOTAL AREA OF PROPERTY = 8,653,510 SQ. FT (198.68 ACRES)
- 2) TOTAL AREA OF C.S.A.H. NO 2 RIGHT-OF-WAY = 298,211 SQ. FT. (6.87 ACRES)
- 3) TOTAL AREA OF PROPERTY EXCLUDING RIGHT-OF-WAY = 8,354,299 SQ. FT. (191.79 ACRES)