

**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 Chief Administrative Law Judge for the Office of Administrative Hearings;
- 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 an Orderly Annexation Area ("OAA") as authorized by Minnesota Statute §414.0325, subd. 1, which property abuts the existing eastern border of the City, is approximately 200 acres and it 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 Chief Administrative Law Judge, 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 the Chief Administrative Law Judge as necessary to make effective the annexation of said area in accordance with the terms of this Joint Resolution.
- 5. Notice Requirements.** In adopting the joint resolution, the City and Township have complied with all statutory requirements including the notice requirements of Minnesota Statutes § 414.0325.

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 outlined in this paragraph:

A. Annexation. Annexation in the Area shall be at the initiation of the property owners and may include a portion or all of the property within 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 Chief Administrative Law Judge 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. The City determining that the proposal does not constitute a premature subdivision in any other respect.

Upon receipt of an annexation Resolution as provided herein, the Chief Administrative Law Judge 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 Chief Administrative Law Judge 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 acre 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. Detachment of Property. In the event that City sewer and water services are not extended to the Orderly Annexation Area within three (3) years after annexation of the Orderly Annexation Area, then, upon request by the Town Board or submission of a Petition by the property owners of the Orderly Annexation Area in accordance with the provisions of Minn. Stat. §414.06, the City of Elko New Market agrees to approve and submit to the Chief Administrative Law Judge a resolution of the City of Elko New Market for detachment of the

Orderly Annexation Area from the municipality, and in connection with any such hearing thereon, agrees that the Orderly Annexation Area is not needed for reasonably anticipated future development and that the detachment of the Orderly Annexation Area would not unreasonably affect the symmetry of the City of Elko New Market nor cause any hardship in the City of Elko New Market's ability to carry on the functions of government.

11. 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. Similarly, this Joint Resolution also may be amended or changed upon mutual, written agreement of both the parties.

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

13. 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.

14. 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.

15. 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.

16. 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.

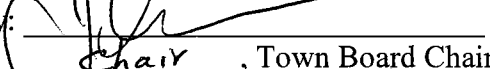
C. Binding Arbitration/Adjudication: If mediation is not successful, the parties may agree to submit their respective grievances to binding arbitration or may seek relief through

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 fees, costs and expenses to a party found to be in violation of the terms of this agreement.

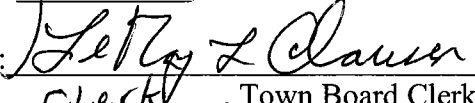
17. **Heading & Captions:** Headings and Captions are for convenience only and are not intended to alter any of the provisions of this joint resolution for orderly annexation.

TOWNSHIP OF NEW MARKET

Passed and adopted by the Town Board of the Town of New Market on this the 9th day of February, 2012.

By: 

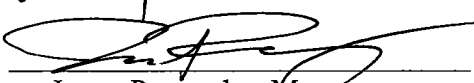
Chair, Town Board Chair

Attest: 

Clerk, 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 26 day of January, 2012.

By: 

Jason Ponsonby, Mayor

Attest: 

Sandra Green, Deputy 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 aforedescribed 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 (198.66 ACRES)
- 2) TOTAL AREA OF C.S.A.H. NO 2 RIGHT-OF-WAY = 299,211 SQ. FT. (6.87 ACRES)
- 3) TOTAL AREA OF PROPERTY EXCLUDING RIGHT-OF-WAY = 8,354,299 SQ. FT. (191.79 ACRES)

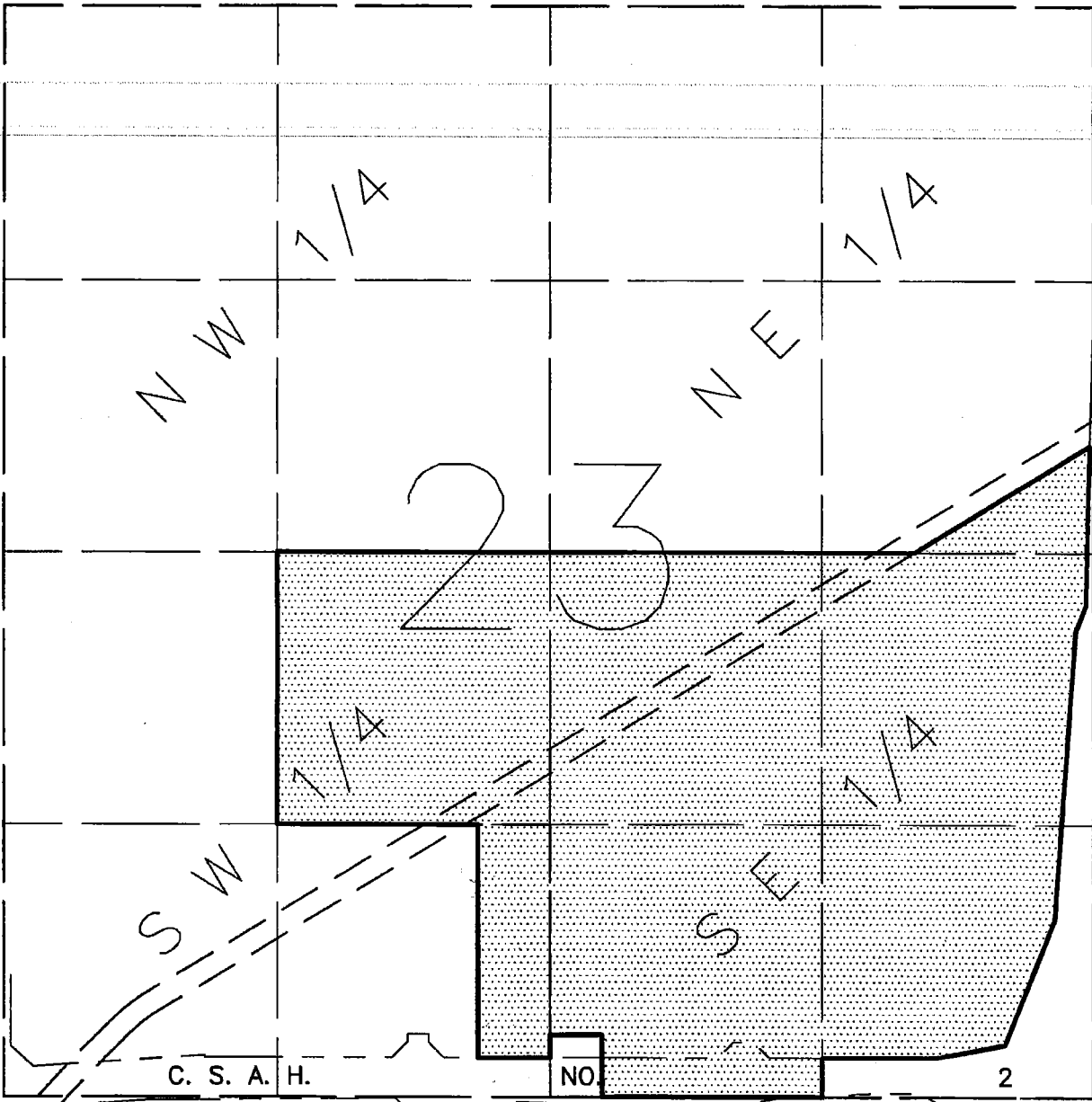
REC'D BY
MBA

FEB 14 2012

EXHIBIT "B"

MAP OF SUBJECT PROPERTY:

I:\ELNM\T15100719\ANNEXATION\C3D\SURVEY\EXIST COND\100719EX1-ANNEX.DWG 01-20-2012 10:53a.m.



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ANNEXATION EXHIBIT B
ELKO NEW MARKET, SCOTT COUNTY

P/O SEC. 23, T. 113, R. 21



BOLTON & MENK, INC.
Consulting Engineers & Surveyors

12224 NICOLLET AVENUE S, BURNSVILLE, MN 55337 (952) 890-0509
MANKATO, MN FAIRMONT, MN SLEEPY EYE, MN BURNSVILLE, MN
WILLMAR, MN CHASKA, MN RAMSEY, MN AMES, IA

FOR: CITY OF ELKO NEW MARKET