

REC'D BY
MBA

MAR 24 2016

**In the Matter of the City of
La Crescent/La Crescent Township**

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE PETITION FOR)
THE ANNEXATION OF CERTAIN LAND)
TO THE CITY OF LA CRESCENT PURSUANT)
TO MINNESOTA STATUTES § 414.0325)

JOINT RESOLUTION

JOINT RESOLUTION FOR ORDERLY ANNEXATION BY AND BETWEEN
LA CRESCENT TOWNSHIP AND THE CITY OF LA CRESCENT

WHEREAS, the City of La Crescent (the "City") mailed to La Crescent Township (the "Township") a Notice of Intent for Annexation dated November 9, 2015 on November 12, 2015 seeking annexation of certain areas located within La Crescent Township pursuant to Minnesota Statutes, Section 414.031; and

WHEREAS, the City mailed a correspondence dated November 12, 2015 and January 11, 2016 to the Township with the Notice proposing that the annexation referenced in the Notice be completed by an Orderly Annexation Agreement with the City reimbursing the Township for two (2) years of real estate taxes and paying all necessary publication fees to timely complete the annexation; and

WHEREAS, the Township voted at its February 8, 2016 and March 14, 2016 Town Board Meeting to proceed with an Orderly Annexation Agreement with the terms outlined by the City in its correspondence dated November 12, 2015 and January 11, 2016; and

WHEREAS, the Township and City have now reached a settlement agreement believed to be in their mutual best interests; and

WHEREAS, the Township and City desire to enter into an agreement allowing for the orderly annexation of certain property, pursuant to Minnesota Statutes, Section 414.0325; and

WHEREAS, the parties hereto desire to set forth the terms and conditions of such orderly annexation by means of this Joint Resolution in settlement of the above-referenced matter; and

WHEREAS, for ease of reference, the area of the Township proposed for immediate orderly annexation in accordance with this Joint Resolution (hereinafter referred to as the "Subject Area") is legally described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, the Notice of Intent was published in the *Houston County News* newspaper on February 18, 2016.

WHEREAS, the City has available capacity to provide needed services to the Subject Area; and

WHEREAS, the Township and City agree that orderly annexation of the Subject Area is in the best interest of the property owners and would benefit the public health, safety, and welfare of the community; and

WHEREAS, the Township and City desire to accomplish the immediate orderly annexation of the Subject Area without the need for any further hearings before the Office of Administrative Hearings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of La Crescent and the Township Board of Supervisors of the Township of La Crescent as follows:

1. Designation of Subject Area. The Township and City hereby designate the Subject Area legally described in Exhibit A for immediate orderly annexation pursuant to Minnesota Statutes, Section 414.0325.
2. Acreage of Subject Area. The Township and City agree that the Subject Area is approximately 4.17 acres.
3. Map of Subject Area. A boundary map showing the Subject Area legally described in Exhibit A is attached hereto as Exhibit B and is hereby incorporated herein by reference.
4. No Hearing Required/Review and Comment Jurisdiction Only. Pursuant to Minnesota Statutes, Section 414.0325, the Township and City agree that no alteration of the boundaries stated herein is appropriate, that all conditions for annexation of the Subject Area legally described in Exhibit A are contained in this Joint Resolution, and that no consideration by the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit is necessary. Upon the execution and filing of this Joint Resolution, the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit may review and comment hereon, but shall, within 30 days of receipt of this Joint Resolution, order the annexation of the Subject Area legally described in Exhibit A in accordance with the terms and conditions contained in this Joint Resolution.
5. Tax Reimbursement. Pursuant to Minnesota Statutes, Section 414.036, the Township and City agree that upon annexation of the Subject Area, the City shall reimburse the Township for the loss of taxes from the property so annexed for the period and in accordance with the following schedule:
 - (a) In the first year following the year the city could first levy on the annexed area, an amount equal to \$472.51; and (b) In the second and final year, an amount equal to \$472.51.

6. Municipal Services. After annexation of the Subject Area, the City shall be responsible for providing municipal governmental services within the Subject Area. In the event that property owners within the Subject Area desire to receive certain municipal service that the property owner is not currently receiving, property owners may file a petition with the City for such service and receive consideration from the City Council. The City Council will endeavor to provide property owner petitioned services to the requesting properties in a timely manner to the extent practicable in the judgment of the City Council based on factors, including but not limited to the following: cost, timing and feasibility of the service project; cost, timing and feasibility of other City improvement projects; demonstrated service need; location of the petitioning property; distance of petitioning property from the petitioned service; type of service; capital improvement plan; comprehensive plan and other City land use controls; new or existing development; environmental review; number of property owners seeking services; and financial considerations including but not limited to assess ability of the service to the petitioning property and other likely situated properties, and the extent of property owner provided financing for the requested service.
7. Termination. This Joint Resolution shall remain in full force and effect until one of the following conditions takes place, whichever comes first:
 - a. Termination by mutual written joint resolution of the City and Township; or
 - b. Upon completion of tax reimbursement to the Township in accordance with this Joint Resolution.
8. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.
9. Disputes and Remedies. The Townships and City agree as follows:
 - a. Negotiation. When a disagreement over interpretation of any provision of this Joint Resolution shall arise, the City and Township will direct staff members, as they deem appropriate, to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
 - b. Mediation/Arbitration. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties hereto may mutually agree in writing to seek relief by submitting their respective grievances to mediation and/or binding arbitration.
 - c. Adjudication. When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, are unable to negotiate an interpretation of any provision of this Joint Resolution or are unable to agree to submit their respective grievances to mediation or binding arbitration, or such action has not otherwise resolved the matter in dispute, either party to the dispute may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default, or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an

action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

10. Modification/Amendment. This Joint Resolution shall not be modified, amended, or altered except upon the written joint resolution of the City and the Township duly executed and adopted by the City Council and the Township Board of Supervisors and filed with the OAH-MBAU, or its successor agency.
11. Severability. In the event that any provision of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties hereto.
12. Headings and Captions. Headings and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.
13. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution 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 Township and City.
14. Legal Description and Mapping. The Township and City agree, in the event there are errors, omissions or any other problems with the legal description provided in Exhibit A or mapping provided in Exhibit B in the judgment of the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit or either party, 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 State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustment Unit as necessary to make effective the annexation of the Subject Area in accordance with the terms of this Joint Resolution.
15. Notice. Any notices required under the provisions of this Joint Resolution shall be in writing and sufficiently given if delivered in person or sent by U.S. mail, postage prepaid, as follows:


If to the City:	If to the Township:
City Administrator La Crescent City Hall 315 Main Street La Crescent, MN 55947	Township Clerk La Crescent Township 4610 CTH 6 La Crescent, MN 55947
16. Effective Date. This Joint Resolution shall be effective on the date that the last party hereto signs and dates said document.

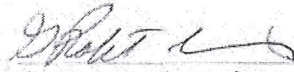
17. Filing. The Township and City agree that upon adoption and execution of this Joint Resolution, the City shall file the same with the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments Unit and pay the required filing fee.
18. Joint Participation. The parties have participated jointly in the negotiation and preparation of all agreements between the parties. Each party has had an opportunity to obtain the advice of legal counsel and to review and comment upon this instrument. Accordingly, no rule of construction shall apply against any party or in favor of any party. This instrument shall be construed as if the parties jointly prepared it and uncertainty or ambiguity shall not be interpreted against one party and in favor of another.

Passed, adopted, and approved by the Township Board of Supervisors of the Township of La Crescent, Houston County, Minnesota, this 14th day of March, 2016.

ATTEST:

TOWNSHIP OF LA CRESCENT


By: 
Karen Schuldt, Township Clerk

By: 
George R. Cummings, Chair

Passed, adopted, and approved by the City Council of the City of La Crescent, Houston County, Minnesota, this 14th day of March, 2016.

ATTEST:

CITY OF LA CRESCENT

By: 
Bill Waller, City Administrator

By: 
Mikel Poehlunger, Mayor

EXHIBIT A**Parcel 08.0552.000:**

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 104 NORTH OF RANGE 4 WEST OF THE FIFTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 9, RUN WEST ALONG THE SECTION LINE A DISTANCE OF 1532.8 FEET THEN NORTH 8°30' EAST A DISTANCE OF 1028.6 FEET TO THE PLACE OF BEGINNING; THENCE NORTH 8°30' EAST A DISTANCE OF 497.1 FEET TO THE CENTER LINE OF PINE CREEK ROAD THEN NORTH 64°44' WEST ALONG SAID CENTER LINE A DISTANCE OF 100.25 FEET THEN SOUTH 8°30' WEST A DISTANCE OF 525.9 FEET THEN SOUTH 81°30' EAST A DISTANCE OF 96.0 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.13 ACRES MORE OR LESS, HOUSTON COUNTY, MINNESOTA.

Parcel 08.0574.000:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 104 NORTH OF RANGE 4 WEST, DESCRIBED AS COMMENCING AT THE CENTER OF SECTION 9, THENCE SOUTH ALONG THE QUARTER SECTION LINE 424.4 FEET TO THE CENTER OF THE COUNTY HIGHWAY, THENCE SOUTH 58°32' EAST ALONG THE CENTERLINE OF SAID HIGHWAY 433.75 FEET, THENCE CONTINUING ALONG SAID CENTERLINE ON A CURVED LINE TO THE LEFT OF RADIUS 5,729.58 FEET, DELTA ANGLE OF 06°32' LEFT A DISTANCE OF 653.3 FEET, THENCE CONTINUING ALONG SAID CENTERLINE BEARING SOUTH 65°04' EAST A DISTANCE OF 235.56 FEET TO THE POINT OF BEGINNING OF THE PROPERTY TO BE DESCRIBED: THENCE AT A DEFLECTION ANGLE TO THE RIGHT OF 73°11' A DISTANCE OF 556.26 FEET, THENCE AT A DEFLECTION ANGLE TO THE LEFT OF 90° A DISTANCE OF 96.0 FEET, THENCE AT A DEFLECTION ANGLE TO THE LEFT OF 90° A DISTANCE OF 527.25 FEET TO THE CENTER OF THE COUNTY HIGHWAY, THENCE AT A DEFLECTION ANGLE TO THE LEFT OF 106°49' ALONG THE CENTERLINE OF THE COUNTY HIGHWAY A DISTANCE OF 100.29 FEET TO THE POINT OF BEGINNING, CONTAINING 1.19 ACRES, MORE OR LESS INCLUSIVE OF COUNTY HIGHWAY RIGHT OF WAY.

AND

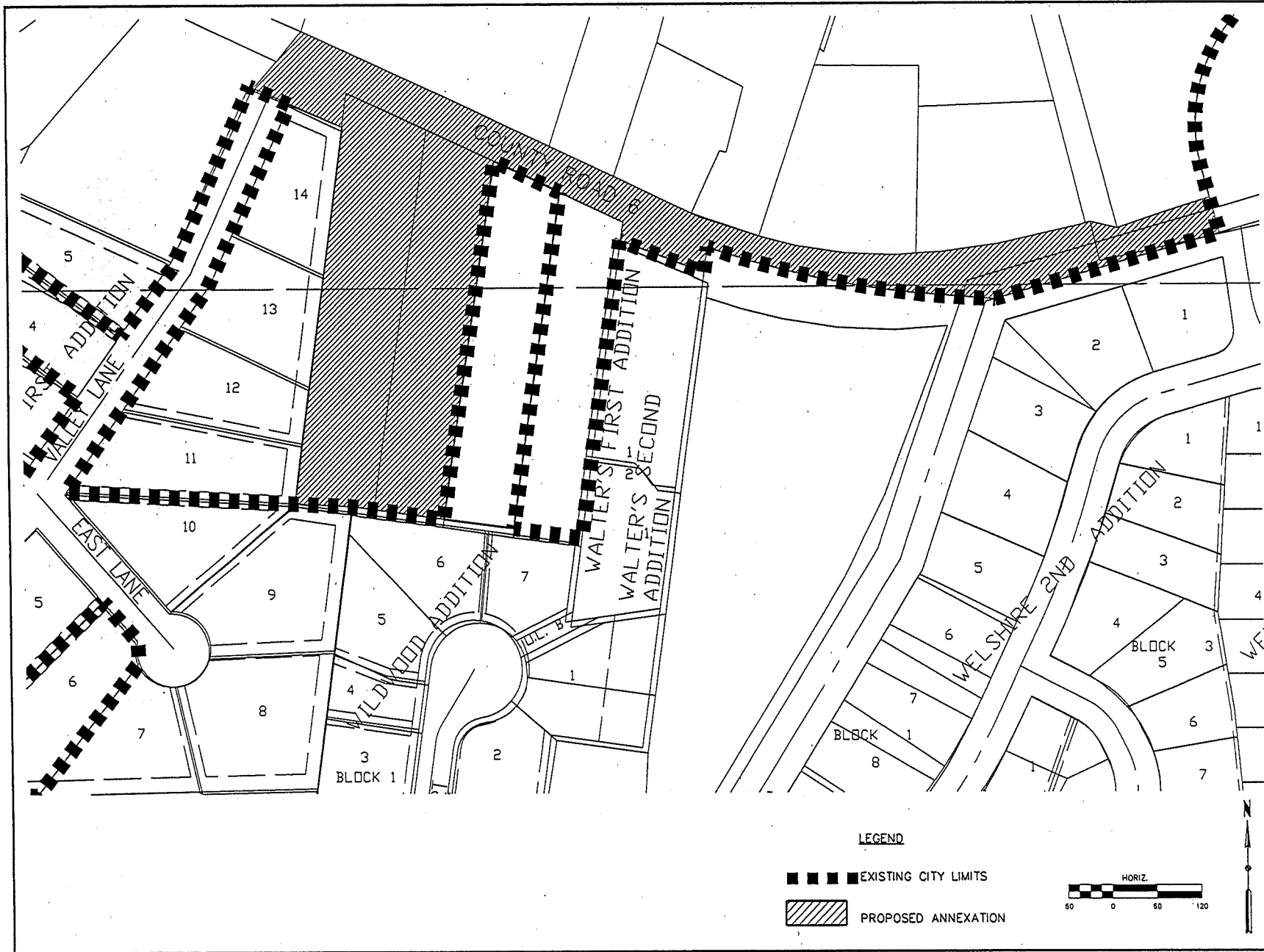
ALL OF CSAH 6 RIGHT OF WAY FROM A POINT 150 FEET EAST OF THE INTERSECTION OF CSAH 25 TO THE WESTERLY RIGHT OF WAY OF VALLEY LANE.

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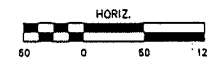
EXHIBIT B
Boundary Map

The municipal boundary map referenced in the attached Joint Resolution, showing the current City of La Crescent and its relation to the Subject Area to be annexed, legally described in Exhibit A, is attached hereto.



LEGEND

- ■ ■ ■ ■ EXISTING CITY LIMITS
- ▨ ▨ ▨ ▨ ▨ PROPOSED ANNEXATION



whks
engineers • planners • land surveyors

License No. 44830

EXHIBIT
B

PROPOSED ANNEXATION BOUNDARIES
LA CRESCENT, MN
7319.16

SCALE:	AS SHOWN
PROJECT NO.	7319.16
DRAWN BY:	SC
CHECKED BY:	TAH
SHEET	1 OF 1