

OCT 04 2006

R109-06

JOINT RESOLUTION/ORDERLY ANNEXATION AGREEMENT
BETWEEN CASTLE ROCK TOWNSHIP AND THE CITY OF FARMINGTON

THIS ORDERLY ANNEXATION AGREEMENT is entered into this 13th of September, 2006 by and between the CITY OF FARMINGTON, MINNESOTA (hereinafter referred to as the "City") and CASTLE ROCK TOWNSHIP (hereinafter referred to as the "Township").

WHEREAS, Minnesota Statutes 414.0325 authorizes townships and municipalities to provide for the orderly annexation of unincorporated areas that are in need of orderly annexation; and

WHEREAS, the City and Township agree that there is a public need for the coordinated, efficient and cost-effective extension of sewer and water services to promote economic growth and development, and provide for the efficient delivery of desired or required public services; and

WHEREAS, the property described in attached Exhibit "A" (hereinafter referred to as the "Annexation Area") is about to become urban or suburban in nature and the City is capable of providing sewer, water, and other public services within a reasonable time; and

WHEREAS, the extension of sewer, water, and other public services can only be provided in prioritized phases if the process and timing of service requirements are clearly identified and jointly agreed upon in advance of the City's capital planning, commitment, and expenditure; and

WHEREAS, the establishment of a process of orderly annexation of said lands may be of benefit to the residents and owners of said lands, and permit the City to extend municipal services in a planned and efficient manner; and

WHEREAS, the City and Township desire to accomplish the orderly annexation of the Annexation Area and the extension of municipal services in a mutually acceptable and beneficial manner without the need for a hearing before the Municipal Boundary Adjustments Unit [MBAU] of the Office of Administrative Hearings, or its successor, and with the purpose of avoiding annexation disputes, enter into this joint resolution for orderly annexation pursuant to Minnesota Statutes 414.0325, subd. 1;

NOW, THEREFORE, BE IT RESOLVED by the City of Farmington and Castle Rock Township that the two parties enter into this Joint Resolution Orderly Annexation Agreement (hereinafter referred to as "Agreement") and agree to the following terms:

Acreage and Location

1. The attached map entitled "Exhibit A - Annexation Area" shall be the framework for annexation from 2006 through 2016 (inclusive). The map constitutes the Annexation Area, and denotes areas from which annexation may occur under this agreement. It is not necessary that all of the land constituting the Annexation Area be annexed within the time period set forth in this agreement.
2. The lands included within the 2006 through 2016 Annexation Area are designated for future urban development within the City. The Township shall oppose any efforts to include any of the lands within the Annexation Area into any governmental jurisdiction other than the City.

Annexation Area

3. The City shall have the right to annex land within the Annexation Area during the period from the date of this Agreement through December 31, 2016. The annexation pace shall be consistent with the requirements and standards set forth in the Comprehensive Plan, and zoning and subdivision regulations of the City.
4. Annexation will be limited to property that is contiguous to the corporate limits of the City.
5. All annexations shall be subject to the prevailing Comprehensive Plan, the Zoning Ordinance, and subdivision regulations of the City.
6. The Township will not file any objection with the MBAU concerning the City's annexation of any land within the Annexation Area described above, so long as the annexation complies with the terms and conditions of the Agreement.

Comprehensive Planning:

7. The City will revise its Comprehensive Plan to address properties located within the Annexation Area.
8. (a) Except as provided in Paragraph 8 (b) or 8 (c), the Planning Commission and/or the City Council of the City of Farmington shall not adopt an initial Comprehensive Plan designation for any property located within the Annexation Area, or subsequently modify, change, or alter in any way that initial Comprehensive Plan designation, without providing the Township with reasonable advance notice of (and a

reasonable opportunity to comment on) any such adoption, modification, change or alteration.

(b) With regard to any proposed industrial or commercial use of property, the Planning Commission and/or the City Council of the City of Farmington shall not adopt an initial Comprehensive Plan designation for any property located within the Annexation Area, or subsequently modify, change, or alter in any way that initial Comprehensive Plan designation, without the consent of the Township Board, which consent may not be unreasonably withheld.

(c) With regard to any proposed medium to high density residential, industrial, or commercial use that is proposed to be constructed within 150' of the west property line of any Castle Rock Township residence that is located adjacent to Berring Avenue, the Planning Commission and/or the City Council of the City of Farmington shall not adopt an initial Comprehensive Plan designation for any property located within the Annexation Area, or subsequently modify, change, or alter in any way that initial Comprehensive Plan designation, without the consent of the Township Board, which consent may not be unreasonably withheld.

(d) With regard to any future development proposed to be constructed along the west property line of any Castle Rock Township residence that is located adjacent to Berring Avenue, the City will not obtain or require any permanent easements or rights-of-way from the owners of the Berring Avenue properties in question.

Planning and Land Use Control

9. Pursuant to MN Statute 414.0325, MN Statute 471.59, and Chapter 462 of the Minnesota Statutes, the parties agree that the City shall have the authority to exercise planning, land use, zoning and subdivision authority within the Annexation Area. Prior to the actual annexation of a parcel of property located within the Annexation Area, the City's exercise of such authority shall be limited to adopting a Comprehensive Plan designation for that parcel, which will not affect the parcels land use unless and until the annexation is complete. Unless otherwise agreed to in writing by the City and the Township, the zoning and use(s) of a parcel located within the Annexation Area, and the construction or modification of structures located thereon, shall be controlled by the Township's Comprehensive Plan, Zoning Code, regulations and procedures until the annexation of that parcel has been completed.

10. Intentionally omitted and reserved for future use.

Annexation Process

11. Annexations within the Annexation Area shall occur only if the owners of the properties located within the Annexation Area petition for annexation.
12. If the City intends to annex a parcel of property within the Annexation Area, the City shall, within 14 days of receipt of a petition to annex property within the Annexation Area, submit to the Township the following:

- (a) The legal description and a map of the property proposed to be annexed;
- (b) A description of the proposed use of said property, if known by the City, and with the express understanding that the City reserves the right to accept or reject any such proposed use;

Upon receipt of submittals set forth above, the Township will be provided 30 days to comment on the proposed annexation.

13. During the term of this Agreement, petitions for the annexation of areas located outside of the Annexation Area shall not be accepted, processed or approved by the City without the express written consent of the Castle Rock Board of Supervisors. This provision shall remain in effect through December 31, 2016 even if this Agreement terminates earlier than December 31, 2016 pursuant to Paragraph 27 hereof.

Road Maintenance and Improvement; Transportation Planning; Road and Bridge Account

14. Road Maintenance Prior to Annexation. The Township shall continue its normal maintenance of existing Township roads, bridges, drainage facilities, and street signage for any property located within the Annexation Area until that property is annexed by the City.
15. Joint Maintenance/Improvement Expenses. The City and Township agree to develop a joint policy for sharing the cost of maintaining and improving Township roads that are adjacent to any property that is annexed pursuant to the terms of this Agreement.
16. Joint Transportation Planning. The City and the Township will work in cooperation with Dakota County, MnDOT and developers to assure that any new development within the Annexation Area properly addresses:

- (a) the transportation needs of the project;
- (b) projected impacts on City and/or Township roads, especially those that are likely to result in the need to make improvements or upgrades due to increased traffic and/or different types of usages; and
- (c) compliance with the transportation system set forth in the City's Comprehensive Plan.

17. Road and Bridge Account. The Township shall create a new road and bridge account that is separate from its existing road and bridge account. Payments of the type referred to in Paragraph 19 below shall be deposited into the new account. The Township may transfer up to 7.5% of each such deposit into its general revenue fund. Funds in the new road and bridge account shall be used exclusively for the following purposes:

- (a) Maintenance: The funds in question may be applied to roadway maintenance costs on Roadway Segments A, B, C or D, as identified on the attached Exhibit B, and on Berring Avenue and 230th Street.
- (b) Improvements: The funds in question may be applied to the cost(s) of constructing, reconstructing, paving or otherwise improving Roadway Segments A, B, C or D, as identified on the attached Exhibit B, and 230th Street.

The Township's engineer shall discuss any proposed or anticipated expenditure in excess of \$1000 with the City's Public Works Director prior to the authorization or commencement of the work in question. Any funds that remain in the account upon the expiration of this Agreement shall be returned to the City unless the parties have mutually agreed in writing, prior to said expiration, that those funds may be retained by the Township for other costs attributable to any additional development that occurs within an area subject to any separate Orderly Annexation Agreement between the City and the Township.

Statutory Sharing of Tax Revenues

18. Property tax revenue generated by annexed properties shall be allocated between the City and the Township on the following basis:

- (a) Ash Street Orderly Annexation Area: For any past or future annexations involving properties located within the Ash Street Orderly Annexation Area, property tax

revenues related to commercial or industrial properties (only) will be shared by the City and the Township pursuant to the provisions of Minn. Stat. Sec 414.035, subd. 12, as set forth below:

Subd. 12. **Property taxes.** When a municipality annexes land under subdivision 2, clause (2), (3), or (4), property taxes payable on the annexed land shall continue to be paid to the affected town or towns for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1 of a levy year, the municipality 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 municipality may not levy on the annexed area until the following levy year. In the first year following the year when the municipality could first levy on the annexed area under this subdivision, and thereafter, property taxes on the annexed land shall be paid to the municipality. In the first year following the year the municipality could first levy on the annexed area, the municipality shall make a cash payment to the affected town or towns in an amount equal to 90 percent of the property taxes distributed to the town in regard to the annexed area in the last year the property taxes from the annexed area were payable to the town; in the second year, an amount equal to 70 percent; in the third year, an amount equal to 50 percent; in the fourth year, an amount equal to 30 percent; and in the fifth year, an amount equal to ten percent. The municipality and the affected township may agree to a different payment.

Any past payments due to the Township pursuant to this Paragraph 18(a) shall be calculated and paid as if this provision had been in effect as of the date of annexation.

(b) **Future Annexations:** For any future annexations that are completed pursuant to the terms of this Agreement, property tax revenues related to properties located within the 2006-2016 Annexation Area shall be shared pursuant to Paragraph 19 of this Agreement.

Tax Rebates to Castle Rock Township

19. **Payments to Township.** Upon annexation of any land per this Agreement, the Township shall not be entitled to receive tax revenue rebates from the City until such time as the property is developed or redeveloped. When development or redevelopment occurs, and the improved property is assessed in a manner that reflects the value of the completed development improvements, the Township shall begin to receive tax revenue rebates. The tax rebate received by the Township on any given developed or redeveloped residential parcel shall be equal to 50% of the amount of the City's share of the total property taxes paid on that parcel in the first tax year that reflects the full value of the completed initial improvements. Improvements shall be considered "completed" when the City issues a

Certificate of Occupancy.

The payments due to the Township pursuant to this Agreement will be made within 60 days of the City's receipt of the property tax revenue(s) in question, or within 60 days of receipt by the City of the annual accounting from the Township, whichever is later.

20. The Township will provide an annual accounting of the use of funds from the Road and Bridge Account referred to herein. If the City wishes to challenge the accounting, it may do so at its own expense. If there is an error in the Township's accounting the error will be corrected by the proper jurisdiction. If the error is in the Township's favor, the expense the City incurred to audit the Township's accounting will be paid through a reduction of funds owed to the Township pursuant to this Agreement.

Dispute Resolution and Amendment

21. Disputes concerning this agreement shall be resolved as follows:

(a) NEGOTIATION. When a disagreement over interpretation of any provision of this agreement occurs, the City and Township must meet at least once, at a mutually convenient time and place, to attempt to resolve the dispute through negotiation.

(b) MEDIATION. If the parties are unable to resolve a dispute, claim or counterclaim, or are unable to negotiate a mutually acceptable interpretation of any provision of this agreement, the parties may mutually agree in writing to seek relief by submitting their respective grievances to non-binding mediation.

(c) ADJUDICATION. When the parties are unable to resolve a dispute, claim or counterclaim, or are unable to negotiate a mutually acceptable interpretation of any provisions of this agreement, or are unable to agree to submit their respective grievances to non-binding mediation, then either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this agreement and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this agreement, the non-violating, non-defaulting, non-breaching party may bring an action for specific performance to compel the performance of this agreement in accordance with its terms. If a court action is required, the court may reimburse the prevailing party for its reasonable attorney's fees and costs.

General Terms and Provisions

22. This agreement may not be modified, amended or altered except upon the written joint resolution of the City and Township, duly executed and adopted by the City Council and Township Board of Supervisors, and filed with the MBAU.

Either party to this agreement may request an amendment. Requests for amendments will first be considered by each jurisdiction's Planning Commission. Their recommendations shall be forwarded to the Township Board and the City Council.

The City and Township agree to meet jointly on an annual basis to consider and discuss (a) the usage of Road and Bridge Account funds during the preceding twelve months and (b) possible modifications to this orderly Annexation Agreement.

23. The terms, covenants, conditions and provisions of this agreement, including the present and all future attachments, shall constitute the entire agreement between the parties, superseding all prior agreements and negotiations regarding the Annexation Area (with the exception of any jointly approved roadway maintenance agreements between the City and the Township). There are no understandings, agreements or assumptions other than the written terms of this agreement.

24. This agreement shall be binding upon and benefit the respective successors and assigns of the City and Township. Specifically, this agreement is binding upon the governmental entity that survives or is created by any action on the part of the Township to merge, consolidate, detach, annex, reorganize or incorporate.

25. This agreement is made pursuant to, and shall be construed in accordance with, the laws of the State of Minnesota. In the event any provision of this agreement is determined or adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this agreement shall remain in full force and effect.

26. Upon the filing of this Agreement and resolution with the MBAU, the parties will not request any alteration of the boundaries of the land constituting the Annexation Area, or any change in the annexation of land not provided for in this agreement. The MBAU may review and comment on the annexation resolution, but may not otherwise consider the resolution or alter the Annexation Area boundaries. Within thirty (30) days of receipt of an annexation resolution adopted by the City, which complies with this Agreement, the MBAU must order the annexation of the area described in the annexation resolution in accordance with the terms and conditions of this agreement.

Termination of Orderly Annexation Agreement

27. This agreement shall terminate on December 31, 2016, or the date upon which all permitted annexation of land in the Annexation Area has been completed, whichever occurs sooner.

Notwithstanding the termination of this agreement, the following provisions shall remain binding and enforceable after the termination of the agreement for all properties annexed under the terms of this agreement:

- (a) Paragraph 17 - Relating to use of tax rebate funds. Any funds in the Road and Bridge Account (Paragraph 17 hereof) shall remain available to the Township for the purposes referred to in Paragraph 17 until the later of:
 - 1. December 31, 2016, or
 - 2. Two (s) years after the City Council's approval of the last annexation of property located within the Annexation Area that occurs prior to December 31, 2016.
- (b) Paragraph 19 - Relating to tax rebates; and
- (c) Paragraph 20 - Relating to annual accounting.

Binding Agreement, Director's Review

28. No alteration of the areas set forth herein for orderly annexation, or their boundaries is appropriate. The director may review and comment, but not alter the boundaries.

29. This Orderly Annexation Agreement designates certain areas as eligible for orderly annexation, and provides the conditions for the annexation of those areas. The parties agree that no consideration by the director is necessary, and that therefore the director may review, and comment, but shall, within thirty (30) days of the submission of a petition for annexation in conformity with this Agreement, order annexation consistent with the terms of this Orderly Annexation Agreement, and Resolutions submitted pursuant thereto.

30. This Agreement is a binding contract, and provides the exclusive procedures by which the unincorporated property identified in the Agreement may be annexed to the City. The City shall not annex property within the Annexation Area by any other procedure.

OCT 04 2006

ADOPTED BY THE CASTLE ROCK TOWNSHIP BOARD OF SUPERVISORS ON
THE 15th DAY OF September, 2006.

ATTESTED TO:

By: Russell W. Gallen
Its: Board Chair

By: Marsha Raker
Its: Town Clerk

ADOPTED BY THE FARMINGTON CITY COUNCIL ON THE 18th DAY OF
September, 2006.

ATTESTED TO:

By: Kewan A. Leisberg
_____, Mayor

By: [Signature]
_____, City Administrator

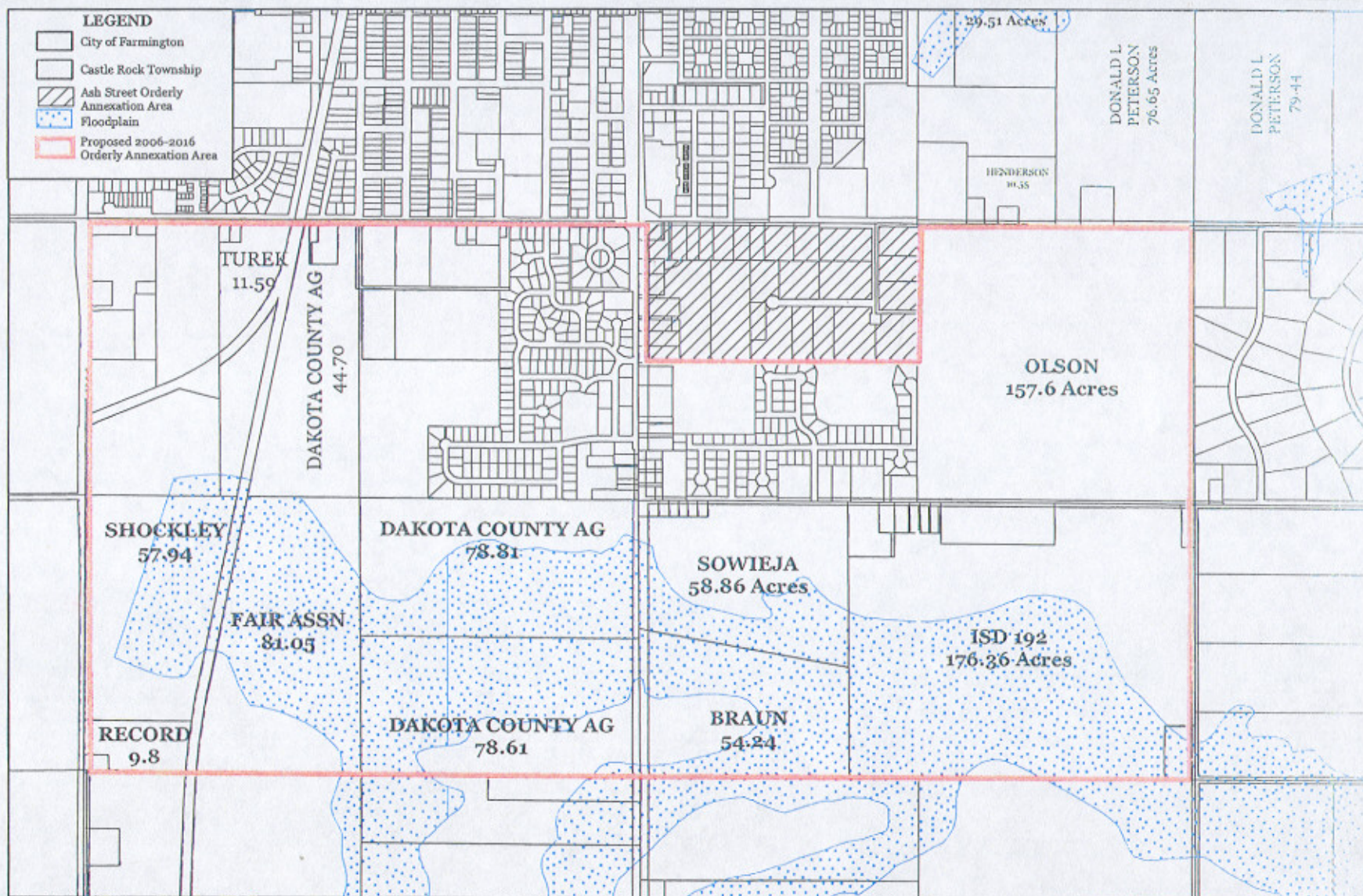
EXHIBIT A

(Farmington/Castle Rock Orderly Annexation Agreement)

Orderly Annexation Area Description:

All of Sections 5 and 6, Township 113 North, Range 19 West, Dakota County, Minnesota EXCEPT the North Half of the Northwest Quarter of said Section 5 and ALSO EXCEPT any property within the above described orderly annexation area description that is currently within the boundaries of the City of Farmington.

10/12/2006



0 0.125 0.25 0.5 Miles

EXHIBIT A

Map created 9/22/05
Map revised 5/2/06

TIRIA/GIS Project Maps/2005 CR-Orderly Annexation Agreement

REC'D BY
MMR

OCT 04 2006

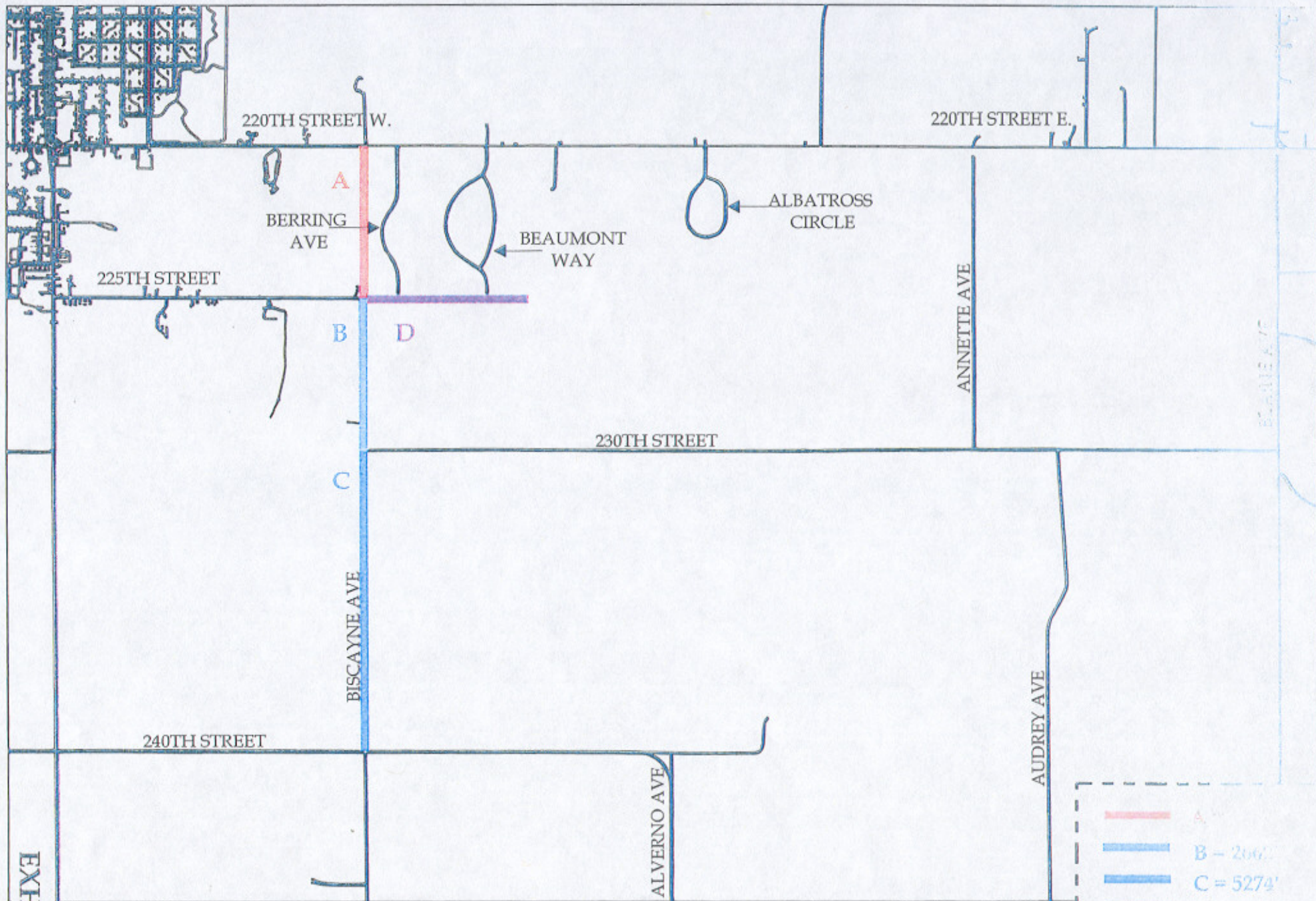


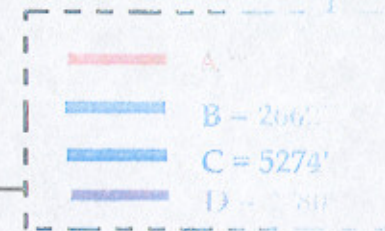
EXHIBIT B

1,000
Feet

REC'D BY
MMB
OCT 04 2006



EXHIBIT B



Map created 11/30/05
Map revised 5/2/06

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