

**CITY OF ELKO NEW MARKET
(Resolution No. 19-31)**

**NEW MARKET TOWNSHIP
(Resolution No. 2019-007)**

**JOINT RESOLUTION ESTABLISHING AN ORDERLY ANNEXATION
AGREEMENT BETWEEN THE CITY OF ELKO NEW MARKET AND NEW MARKET
TOWNSHIP PURSUANT TO MINNESOTA STATUTES, SECTION 414.0325 TO
PROVIDE FOR THE IMMEDIATE ANNEXATION OF CERTAIN PROPERTY**

WHEREAS, the City of Elko New Market, Scott County, Minnesota (“City”) and New Market Township, Scott County, Minnesota (“Town”) both desire to accommodate growth in a cooperative, planned, and orderly fashion; and

WHEREAS, the City and Town are in agreement as to the orderly annexation of the unincorporated land described herein, and both determine such annexation will be to their benefit and to the benefit of their respective residents; and

WHEREAS, Minnesota Statutes, section 414.0325 provides a procedure whereby the City and the Town may agree on a process of orderly annexation of a designated area; and

WHEREAS, the City and the Town are in agreement as to the immediate annexation of the designated area in accordance with the provisions of this orderly annexation agreement (“Agreement”) in order to promote orderly and planned residential growth; and

WHEREAS, the subject property is urban or suburban or about to become so, and since the City is capable of providing services to this area within a reasonable time, the annexation would be in the best interest of the area; and

WHEREAS, the owners of the property have waived the electric utility service notice under Minnesota Statutes, section 414.0325, subdivision 1a as the provider of such service will not change as a result of the annexation; and

WHEREAS, the notice requirements prescribed by Minnesota Statutes, section 414.0325, subdivision 1b do not apply because the Agreement provides for the immediate annexation of the designated property and all of the owners of the property have petitioned for the annexation; and

WHEREAS, this Agreement sets out all of the terms and conditions for the annexation of the property described within this document and the signatories hereto agree that no consideration by the Chief Administrative Law Judge of the Office of Administrative Hearings is necessary.

NOW, THEREFORE, the City Council of the City of Elko New Market and the Town Board of New Market Township hereby resolve and agree to the immediate annexation into the City of the property herein described upon the following terms and conditions:

1. **Designated Area.** The unincorporated property designated for orderly annexation by this Agreement consists of the land legally described in the attached Exhibit A and shown on map attached hereto as Exhibit B ("Property").
2. **Immediate Annexation.** It is agreed that the Property be immediately annexed to the City. Upon its adoption by both the City and the Town, the City shall file this Agreement with the Chief Administrative Law Judge for processing and an order providing for the immediate annexation of the Property pursuant to its terms. This City shall be responsible for providing any additional information that may be required to accomplish the annexation provided for herein.
3. **Acreage/Population/Usage/Zoning.**
 - a. The Property consists of approximately 36.42 acres.
 - b. The population of the Property is currently 0.
 - c. The Property is owned by Elko 34, LLC, a Minnesota limited liability company, which signed a petition for this annexation as part of a desire to subdivide and develop this land into single-family residential lots.
 - d. The Property abuts the east boundary line of the main City limits and is not included within any other municipality.
 - e. Upon annexation, the Property will be included in the City's urban reserve zoning district, subject to an anticipated rezoning request by the petitioners and/or any other prospective developer.
4. **Roads.** This annexation will include annexation of abutting Township roads. The City will be responsible for maintaining the entire width of 273rd Street right-of-way to the easterly boundary of the Property to be annexed.
5. **Jurisdiction.** Pursuant to Minnesota Statutes, section 414.0325, the Town and the City, upon passage of this joint resolution, confer jurisdiction upon the Chief Administrative Law Judge so as to accomplish orderly annexation in accordance with the terms of this Agreement.
6. **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. Differential taxation under M.S. §414.035, or special assessment or debt reimbursement under M.S. §414.036 is not required.

Taxes payable to the Town in 2019 on the Property total \$1,522.86. Pursuant to Minnesota Statutes, section 414.036, the City and the Town agree that upon annexation

of the Property, the City shall reimburse the Town for the equivalent of 5 years of property taxes associated with the Property, determined by the 2019 taxes. Therefore, the City shall pay the Town a lump sum of \$7,614.30 on or before January 1, 2020. There are no special assessments assigned by the Town to the Property, nor is there any debt incurred by the Town attributable to the Property.

7. **Review and Comment.** The City and the Town agree that upon receipt of this Agreement, as passed and adopted by each party, the Chief Administrative Law Judge may review and comment but shall, within 30 days, order the annexation in accordance with the terms of this Agreement. The City and Town agree that no alteration of the stated boundaries of the orderly annexation area as shown and described in the attached exhibits is appropriate, that no consideration by the Chief Administrative Law Judge is necessary, that all terms and conditions for annexation are provided for in this Agreement, and that no alteration of the terms and conditions of this Agreement by the Chief Administrative Law Judge is appropriate.
8. **Detachment of Property.** In the event that a final plat of all or a portion of the Orderly Annexation Area is not approved by the City within five (5) 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.
9. **Binding Contract.** Pursuant to Minnesota Statutes, section 414.0325, subdivision 6, this Agreement is a binding contract upon the parties and is enforceable in district court in the county containing the Property.
10. **Costs Associated with the Orderly Annexation Agreement.** Each party shall pay its own costs incurred in the negotiation, development and implementation of this Agreement, with the exception that the City shall pay for the recording and filing fees, and costs incurred to make any needed corrections.
11. **Entire Agreement.** The terms, covenants, conditions, and provisions of this Agreement, including Exhibits A and B, which are attached hereto and incorporated herein by reference, shall constitute the entire agreement between the parties. No amendment to this Agreement shall be effective unless mutually agreed to by the City and Town. Any prior joint resolutions or agreements regarding all or any portion of the Property are superseded by, and shall not interfere with or otherwise control, the terms of this Agreement.

12. **Effective Date/Applicability.** This Agreement is effective upon its adoption by the respective governing bodies of both the Town and the City. The annexation of the Property shall be effective upon the issuance of the order by the Chief Administrative Law Judge. This Agreement is only meant to apply to the Property and not to any other property or area within the Town.
13. **Adopt and Enforce Regulations.** The City's zoning and subdivisions regulations shall apply to the Property annexed pursuant to this Agreement upon the effective date of the Chief Administrative Law Judge's order approving the annexation. Until such time as the annexation is effective, the Property shall remain subject to the Town's ordinances and regulations.
14. **Authorization.** The appropriate officers of the City and the Town are hereby authorized to carry the terms of this Agreement into effect.
15. **Governing Law.** This Agreement is made pursuant to, and shall be construed in accordance with, the laws of the State of Minnesota.

[signature pages to follow]

Adopted by affirmative vote of the New Market Town Board this 4 day of June 2019,
2019.

NEW MARKET TOWNSHIP

By: 
New Market Twp, Town Board Chair

Attest: 
New Market Twp, Town Board Clerk

Adopted by affirmative vote of the City Council of the City of Elko New Market, this 13th day of June, 2019.

CITY OF ELKO NEW MARKET

By: _____

Joe Julius, Its Mayor

And: _____

Thomas Terry, Its Acting City Clerk

EXHIBIT A
Legal Description of Orderly Annexation Area

The West 453.00 feet of the South Half of the Northwest Quarter of the Northwest Quarter, Section 35, Township 113, Range 21, Scott County, Minnesota;

AND

That part of the East Half of the Northeast Quarter, Section 34, Township 113, Range 21, Scott County, Minnesota, lying Easterly of the center lines of Xerxes Avenue and Beard Avenue, except that part of the said East Half of the Northeast Quarter described as follows:

Commencing at the Southeast corner of said East Half of the Northeast Quarter thence South 89 degrees 00 minutes 40 seconds West (assumed bearing) along the South line of said East Half of the Northeast Quarter a distance of 271.17 feet to the point of beginning of the land to be described; thence continuing South 89 degrees 00 minutes 40 seconds West along said South line a distance of 750.00 feet; thence North 19 degrees 08 minutes 41 seconds West a distance of 33.00 feet; thence Northeasterly 369.86 feet along a nontangential curve concave to the Northwest, having a radius of 408.28 feet, central angle of 51 degrees 54 minutes 17 seconds and a chord that bears North 44 degrees 54 minutes 09 seconds East; thence North 18 degrees 57 minutes 02 seconds East, tangent to said curve a distance of 583.23 East; thence South 71 degrees 21 minutes 43 seconds East a distance of 336.71 feet; thence on a bearing of South parallel with the East line of said East Half of the Northeast Quarter a distance of 715.35 feet to the point of beginning, Scott County, Minnesota.

EXHIBIT B
Map of the Property

