

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	<u>A M E N D E D</u>
AGREEMENT BETWEEN THE CITY OF FERGUS FALLS)	<u>ORDER</u>
AND THE TOWN OF FERGUS FALLS PURSUANT TO)	
MINNESOTA STATUTES 414)	

WHEREAS, a joint resolution for orderly annexation was adopted by the City of Fergus Falls and the Town of Fergus Falls; and

WHEREAS, a resolution was received from the City of Fergus Falls indicating their desire that certain property be annexed to the City of Fergus Falls pursuant to M.S. 414.0325; and

WHEREAS, M.S. 414.0325 states that in certain circumstances the Director of Strategic and Long Range Planning may review and comment, but shall within 30 days order the annexation pursuant to said subdivisions; and

WHEREAS, Reorganization Order No. 192, effective March 8, 2005, has transferred the duties of the Director to the Chief Administrative Law Judge.

WHEREAS, on June 9, 2005, the Chief Administrative Law Judge reviewed and accepted the resolution for orderly annexation;

IT IS HEREBY ORDERED: That the following described property is hereby annexed in accordance with the terms of the joint resolution to the City of Fergus Falls, Minnesota, the same as if it had originally been made a part thereof:

1. Community Bible Church Tract:

All that part of the Northeast Quarter (NE ¼) lying North of
Trunk Highway No. 210, EXCEPT that part of the Northeast

Quarter described as follows: Commencing at the Southeast corner of said Northeast Quarter, thence on an assumed bearing of North on the easterly line thereof for a distance of 217.76 feet to point of beginning of area to be described, said point also being on the northerly right of way line of State Trunk Highway No. 210 as described in a certain Quit Claim Deed in favor of the State of Minnesota, dated the 24th day of February, 1966, and filed of public record in Book 402 of Deeds, page 237, thence North 77 degrees 57 minutes 42 seconds West on said right of way line for a distance of 27.42 feet to an angle point on said right of way line, thence North 0 degrees 03 minutes 10 seconds West and continuing on said right of way line for a distance of 100.00 feet to an angle point on said right of way line, thence continuing on said right of way line and on a bearing of South 50 degrees 59 minutes 34 seconds West for a distance of 103.88 feet to an angle point on said right of way line, thence North 77 degrees 57 minutes 42 seconds West on said right of way line for a distance of 79.70 feet, thence North 0 degrees 03 minutes 10 seconds West 218.00 feet, thence North 89 degrees 56 minutes 50 seconds East 202.76 feet to the easterly line of said Northeast Quarter, thence on a bearing of South on said easterly line for a distance of 261.38 feet to point of beginning, all in Section Thirty-one (31), Township One Hundred Thirty-three (133), Range Forty-three (43) West.

2. Johnson Tract:

That part of Government Lot Two (2) of Section Thirty-one (31), Township One Hundred Thirty-three (133) North, Range Forty-three (43) West, Otter Tail County, Minnesota, described as follows: Commencing at the East Quarter Section Corner of said Section 31; thence North 89 degrees 28 minutes 22 seconds West (assumed bearing) along the North line of said Government Lot Two (2) a distance of 906.10 feet to the Northeast Corner of Riverdale First Addition, on file and of record in the office of the County Recorder in and for Otter Tail County, Minnesota, thence continuing North 89 degrees 28 minutes 22 seconds West along the North line of said Government Lot Two (2) a distance of 708.87 feet to the West line of Two Rivers Road as recorded in said Riverdale First Addition; thence South 00 degrees 29 minutes 26 seconds West along the West line of said Two Rivers Road a distance of 100.88 feet to the point of beginning; thence North 89 degrees 30 minutes 34 seconds West a distance of 31.49 feet; thence

South 51 degrees 23 minutes 33 seconds West a distance of 197.66 feet; thence South 00 degrees 43 minutes 52 seconds West a distance of 227 feet more or less to the shoreline of the Pelican River; thence southeasterly and easterly following along said shoreline a distance of 353 feet more or less to its intersection with the West line of Lot One (1), Block One (1) of said Riverdale First Addition; thence North 00 degrees 29 minutes 26 seconds East along the West line of said Lot One (1), Block One (1) and the West line of said Two Rivers Road a distance of 535 feet more or less to the point of beginning.

Together with that part of Lot One (1), Block One (1) of said Riverdale First Addition described as follows: Commencing at the East Quarter Section Corner of said Section Thirty-one (31); thence North 89 degrees 28 minutes 22 seconds West (assumed bearing) along the North line of said Government Lot Two (2) a distance of 906.10 feet to the Northeast Corner of Riverdale First Addition, on file and of record in the office of the County Recorder in and for Otter Tail County, Minnesota; thence continuing North 89 degrees 28 minutes 22 seconds West along the North line of said Government Lot Two (2) a distance of 708.87 feet to the West line of Two Rivers Road as recorded in said Riverdale First Addition; thence South 00 degrees 29 minutes 26 seconds West along the West line of said Two Rivers Road a distance of 100.88 feet; thence continuing South 00 degrees 29 minutes 26 seconds West along the West line of said Two Rivers Road a distance of 112.91 feet to the most northerly corner of said Lot One (1), Block One (1), said point being the point of beginning; thence continuing South 00 degrees 29 minutes 26 seconds West along the West line of said Lot One (1), Block One (1) a distance of 130.00 feet; thence South 89 degrees 30 minutes 34 seconds East a distance of 20.37 feet to the northeasterly line of said Lot One (1), Block One (1); thence northwesterly along said northeasterly line on a nontangential curve concave to the northeast a distance of 132.12 feet to the point of beginning, said curve having a radius of 425.00 feet, a central angle of 17 degrees 48 minutes 41 seconds and a chord bearing of North 08 degrees 24 minutes 54 seconds West.

All of the above contains a total of 1.91 acres more or less.

3. Hangair, Inc. Tract:

That part of the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirty-one

(31), Township One Hundred Thirty-three (133), Range Forty-three (43), Otter Tail County, Minnesota, described as follows: Commencing at the southeast corner of said Northeast Quarter (NE $\frac{1}{4}$); thence on an assumed bearing of North on the easterly line thereof for a distance of 217.76 feet to point of beginning of area to be described, said point also being on the northerly right of way line of State Trunk Highway No. 210 as described in a certain Quit Claim Deed in favor of the State of Minnesota dated the 24th day of February, 1966, and filed of public record in Book 402 of Deeds, page 237; thence North 77 degrees 57 minutes 42 seconds West on said right of way line for a distance of 27.42 feet to an angle point on said right of way line; thence North 0 degrees 03 minutes 10 seconds West and continuing on said right of way line for a distance of 100.00 feet to an angle point on said right of way line; thence continuing on said right of way line and on a bearing of South 50 degrees 59 minutes 34 seconds West for a distance of 103.88 feet to an angle point on said right of way line; thence North 77 degrees 57 minutes 42 seconds West on said right of way line for a distance of 79.70 feet; thence North 0 degrees 03 minutes 10 seconds West 218.00 feet; thence North 89 degrees 56 minutes 50 seconds East 202.76 feet to the easterly line of said Northeast Quarter (NE $\frac{1}{4}$); thence on a bearing of South on said easterly line for a distance of 261.38 feet to point of beginning, subject to the rights of the public in County State Aid Highway No. 116, Otter Tail County, Minnesota.

4. Miller Tract:

Tract A

The Northeast Quarter of the Northwest Quarter of Section 28, Township 133 North, Range 43 West of the Fifth Principal Meridian, Otter Tail County, Minnesota.

Except

Sublot A of the Plat of Subdivision of the Northwest Quarter of said Section 28, recorded in Book L of Plats on Page 20 in the Office of the Otter Tail County Recorder.

Containing 26.09 acres, more or less, subject to easements of sight and record.

Tract C

That part of the East Half of the Southwest Quarter of Section 28, Township 133 North, Range 43 West of the Fifth Principal Meridian, Otter Tail County, Minnesota described as follows:

Commencing at the South Quarter Corner of said Section 28; thence North 89 degrees 22 minutes 50 seconds West along the south line of said Southwest Quarter 36.00 feet; thence North 00 degrees 51 minutes 17 seconds East, parallel with the east line of said Southwest Quarter 375.00 feet to the point of beginning; thence North 89 degrees 22 minutes 50 seconds West 601.54 feet; thence North 00 degrees 37 minutes 10 seconds East 502.50 feet; thence North 89 degrees 22 minutes 50 seconds West 679.11 feet to the west line of the East Half of said Southwest Quarter; thence North 00 degrees 47 minutes 56 seconds East along the west line of the East Half of said Southwest Quarter 1530.86 feet to the southerly line of the Otter Tail Valley Railroad right of way; thence South 62 degrees 44 minutes 29 seconds East along the southerly line of said Railroad right of way 1433.77 feet; thence South 00 degrees 51 minutes 17 seconds West, parallel with the east line of said Southwest Quarter 1390.51 feet to the point of beginning.

Containing 42.58 acres, more or less, subject to easements of sight and record.

5. Fergus Falls Port Authority Tract:

The Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), together with that part of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$) lying north of the railroad tracks, as now established, in Section Twenty-eight (28), Range Forty-three (43), Township One Hundred Thirty-three (133);

together with

That part of the East 36 feet (36') of the Southeast Quarter of Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$), lying South of the South right-of-way line of the Burlington Northern Railroad in Section Twenty-eight (28), Range Forty-three (43), Township One Hundred Thirty-three (133), lying south of the above described tract.

6. Otter Tail Power Co. Tract:

That part of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ described as follows: Beginning at

the SW corner of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$; thence North along the West line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$ 394.51 ft. to the Southeasterly right of way limit line of the Burlington Northern, Inc.; thence Southeasterly along said Southerly right of way limit line, to the South line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$; thence West, along South line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$ to the point of beginning.

AND

The West 140 ft. of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ lying North of the Burlington Northern, Inc. right of way.

AND

The West 140 ft. of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$.

All of the above parcels being located in Section 28, Township 133 N, Range 43 W. of 5th Principal Meridian and containing approximately 10.58 acres.

7. Beck Tract:

That part of Sublot Fourteen (14), State Subdivision of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty-four (24), Township One Hundred Thirty-three (133), Range Forty-three (43), Otter Tail County, Minnesota, lying South of County Highway No. 111 and more particularly described as follows: Beginning at the Southeast corner of said Sublot Fourteen (14); Thence west on the South line of said Sublot 645.76 feet; thence North 0 degrees 12 minutes 00 seconds West on the West line of said Sublot 454.84 feet; Thence North 78 degrees 46 minutes 00 seconds East, on the centerline of said County Highway, 659.98 feet; Thence South on the East line of said Sublot 583.66 feet to the Point of Beginning. Excepting there from a tract of land beginning 235 feet North and 66.00 feet East of the Southwest corner of said Sublot; Thence East, parallel with the South line of said Sublot 231.00 feet; Thence North 0 degrees 12 minutes 00 seconds West 198.00 feet; Thence West 231.00 feet; Thence South 0 degrees 12 minutes 00 seconds East 198.00 feet to the Point of Beginning, the tract hereby conveyed containing 6.39 acres, be the same more or less.

Together with a Perpetual Easement for Roadway Purposes, said Easement being described as follows:

A roadway 33 feet on each side of the following described

centerline; Beginning at a point on the South line of Section 24, Township 133 North, Range 43 West, Otter Tail County, Minnesota, a distance of 678.76 feet West of the Southeast corner of the SW1/4 of the SE1/4 thereof; Thence North 0 degrees 12 minutes 00 seconds West 450.28 feet to the center line of County Road No. 111.

8. Nordick Tract:

A tract of land 198 feet North and South and 231 feet East and West, located in Lot 14 of State Subdivision of the Southeast Quarter of Section 24, in Township 133, Range 43, and lying adjacent to and South of public road, in said Lot 14, and described as follows:

Beginning at a point 235 feet due North and 66 feet due East from the Southwest corner of said Lot 14; Thence due East 231 feet; Thence due North 198 feet; Thence due West 231 feet; Thence due South 198 feet to the Point of Beginning, in Otter Tail County, Minnesota.

9. Zender Tract:

The South 235 feet of the West 134 feet of Sublot 15 of the Subdivision of the SE¼ of Section 24, Township 133, Range 43, along with a permanent easement and right of way for ingress and egress as recorded.

~~B. The City and Township agree that the areas described above and designated as in need of immediate annexation are 272.98 acres, more or less.~~

~~A boundary map showing the area legally described herein is attached to as Exhibit A and incorporated herein by reference.~~

~~C. The City and Township agree that the population of the areas legally described as in need of immediate annexation is eight (8).~~

~~D. Pursuant to Minnesota Statutes, Section 414.0325, the City and Township agree that no alteration of the boundaries stated herein is appropriate, that all conditions for annexation of the areas legally described herein are contained in this Joint Resolution for Orderly Annexation (the "Joint Resolution") and that no consideration by Minnesota Planning is necessary. Upon the execution and filing of this Joint Resolution, Minnesota Planning may review and comment thereon, but shall, within 30 days of receipt of this Joint Resolution, order the annexation of the areas legally described in paragraph A above in accordance~~

~~with the terms and conditions contained in this Joint Resolution.~~

~~E. The City shall have the right to levy its real estate taxes immediately upon
annexation (Township shall have the right to receive all real estate taxes
payable in 2005) and will reimburse the Township for real estate taxes that it~~

Amended order dated this 29th
day of July, 2005.

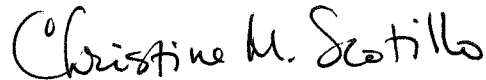
For the Chief Administrative
Law Judge
658 Cedar Street - Room 300
St. Paul, MN 55155



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

Dated this 9th day of June, 2005.

For the Chief Administrative Law Judge
658 Cedar Street - Room 300
St. Paul, Minnesota 55155



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-819-3, the Chief Administrative Law Judge finds and makes the following comment:

Planning in the area designated for orderly annexation must be provided for by one of three provisions set forth in Minnesota Statutes Section 414.0325, Subd. 5. The joint resolution does not make reference to which of the three statutory provisions the parties have agreed on to govern planning in the designated area.

In addition, as written, sections III G., and IV C., regarding an election requirement or future changes to Minnesota Statute Chapter 414 are ineffective. Laws governing the alteration of municipal boundaries is an area reserved exclusively to the legislature whose authority in these matters cannot be overridden by contractual consent.

The parties are encouraged to consider this comment in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation. *cur*