

**TOWN OF NEW MARKET
CITY OF ELKO NEW MARKET**

REC'D BY
MBA

DEC 11 2014

**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 OFFICE OF
ADMINISTRATIVE HEARINGS,
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 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. Acreage/Population/Usage. The Property described herein consists of approximately 127 acres, the population in the subject area is 0, and the land use is currently zoned industrial and urban business reserve. A commercial trucking business is located on an 8 acre portion of the Property and the remaining portions of the Property consist of vacant land. The Property does not abut the existing border of the City of Elko New Market nor any other City, but is located within the anticipated growth area of the City of Elko New Market.

4. 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.

5. Designation of Orderly Annexation Area. The Township and the City hereby establish an Orderly Annexation Area ("OAA"), as authorized by Minnesota Statute §414.0325, subd. 1, for the property legally described on the attached **Exhibit A**. See depiction 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

10. 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 reimbursement under M.S. §414.036 is not required.

11. Annexation Charge.

A. Within 30 days of the date of an Annexation Order for any portion of the Subject Property, the Petitioner shall pay to the Township an Annexation Charge equal to \$500.00 per acre of annexed property, which amount shall increase by \$50.00 per acre per year beginning in the 6th year following the date of this Agreement up to a maximum per acre charge of \$750.00 per acre. The Annexation Charge shall be based on the gross acreage of the annexed property.

B. Should any element of subsection A of this Agreement be deemed unlawful or unenforceable as to any portion of the Property, the parties agree that the Order effecting the property to be annexed shall reference the obligation of the City to reimburse the Township for the lost taxes from the annexed property as required by Minnesota Statutes § 414.036 as detailed in Exhibit C and that there are no special assessments assigned by the Township to the annexed property or any portion of debt incurred by the Township prior to the annexation and attributable to the property but for which no special assessments are outstanding.

12. 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.

13. 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. This Agreement shall terminate if no portion of the Subject Property is annexed within the later of: (i) 10 years from the date of this Agreement or (ii) 2 years from the date of a petition for annexation of all or a portion of the Subject Property by the owners of the Subject Property for a petition that occurs during the 10 year period provided under subsection (i). This Joint Resolution may be amended or changed upon mutual, written agreement of both the parties.

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.

6. 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.

7. 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.

8. Annexation Procedure and 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. Completion of any Environmental Review of the property as required by state law;
3. Execution of a pre-development agreement by the City and the Owners of the property, within the OAA;
4. 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. Comprehensive Plan, Zoning and Subdivision Regulations. Pursuant to Minnesota Statutes 414.0325, Minnesota Statutes, the parties agree that the County shall continue to have authority over land use matters associated with the Property as it does for other property within the Township, until any portion of the Property is annexed by the City pursuant to this Agreement, at which time, the City shall have authority over land use matters associated with the Property.

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

15. 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 19 to correct any such provision that was stricken.

16. 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.

17. 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.

18. Annexation of Abutting Property. Unless otherwise approved by the Township, the City agrees not to initiate annexation or accept a property owner petition for annexation of any property abutting the Property until (i) the City's present boundary extends such that the Property abuts the City's present border or (ii) the property to be annexed also abuts the City's boundary at a point other than the Property.

19. 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 following dispute resolution procedures in the sequence provided:

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.

20. Heading and 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.

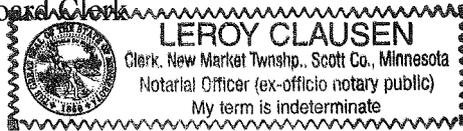
[signature pages to follow]

NEW MARKET TOWNSHIP

Passed and adopted by the Town Board of New Market Township on this the 7 day of October, 2014.

By: [Signature]
10-7-2014 Town Board Chair

Attest: Leroy Clausen
10-7-2014, 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 20 day of November, 2014.

By: 
Tony Gabriel, Mayor

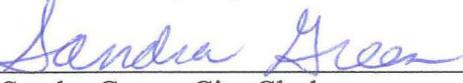
Attest: 
Sandra Green, City Clerk

EXHIBIT "A"

Description of Subject Property

That part of the Southwest Quarter of Section 24, Township 113 North, Range 21 West, Scott County, Minnesota lying southerly of County Road 2 and lying easterly and southerly of Interstate Highway No. 35;

AND

That part of the Northwest Quarter of Section 25, Township 113 North, Range 21 West, Scott County, Minnesota lying southerly of County Road 2 and lying easterly of Interstate Highway No. 35 except the East 725 feet of the Northeast Quarter of the Northwest Quarter of said Section 25;

AND

The West Quarter of the Southwest Quarter of the Northeast Quarter of Section 25, Township 113 North, Range 21 West, Scott County, Minnesota, and that part of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 25 lying southerly of Scott County Right of Way Plat No. 88.

EXHIBIT C

The City and Township agree that upon annexation of the Subject Area legally described in Exhibit A, 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: i) in the first year following the year the City could first levy on the annexed area, an amount equal to ninety (90) percent of the property taxes distributed to the Township in regard to the annexed area in the last year that property taxes from the annexed area were payable to the Township; ii) the City will pay a declining amount of ten (10) percent per year in each year thereafter such that the reimbursement amount in year nine shall be ten (10) percent. Thereafter, the City will no longer reimburse the Township.

Year	Current year Tax Amount	X	%	=	Amount	Date Paid	Check Number
Year 1	\$	x	90%	=	\$		
Year 2	\$	x	80%	=	\$		
Year 3	\$	x	70%	=	\$		
Year 4	\$	x	60%	=	\$		
Year 5	\$	x	50%	=	\$		
Year 6	\$	x	40%	=	\$		
Year 7	\$	x	30%	=	\$		
Year 8	\$	x	20%	=	\$		
Year 9	\$	x	10%	=	\$		

Special Assessments-None.
Bonded Indebtedness-None.