

(reserved for recording information)

Easement Encroachment Agreement for Fences
(Between Property Owner & City of Elko New Market)

1. **Agreement** made this ____ day of _____, 20____, by and between
the City of Elko New Market, a Minnesota municipal corporation (“City”),
and the following property owners, hereinafter referred to as “Owner(s)”:

Property Owner # 1

Property Owner # 2

2. **Background.** Owner is the fee owner of certain real property located in the City of Elko New Market, County of Scott, State of Minnesota, legally described as follows, hereinafter referred to “Subject Property”:

Legal Description Attached

Legal Description

Parcel Identification Number

Property Address

The City owns easements for drainage and utility purposes over portions of the subject property. Owner desires to construct a fence on the subject property which will encroach into the City’s easement areas as depicted on the attached survey/site map attached hereto as **Exhibit A.**

3. **Encroachment Authorization.** The City hereby approves the encroachment in its easement areas on the subject property for the construction of a fence contingent upon the following conditions:

- A. The fence shall not adversely affect drainage or create debris buildup.
- B. Owner(s) are responsible for verifying that no conflict exists with utilities prior to installation of the fence.
- C. Owner(s) shall keep the fence in good repair and shall comply with all City Ordinances related to fences. The City shall have no responsibility to maintain the fence.
- D. The City or any utility company having authority to use the easement shall not be liable for repair or replacement of fences in the event that they are moved, damaged, or destroyed by virtue of the lawful use of the easement. Owner(s) shall be responsible for any costs associated with the removal of fencing encroaching into the easement area.
- E. In cases where necessary easement access is more probable, as determined by the City (see checked box below), gates and/or removable fence panels may be required within the easement area.
 - Gates and/or removable fence panels shall be installed within the easement area.
 - Gates and/or removable fence panels are recommended within the easement area.
 - Gates and/or removable fence panels are not needed within the easement area.

Required gates and fence panels shall be wide enough to provide easy access for authorized personnel and standard drainage and utility maintenance equipment.

4. **Hold Harmless and Indemnity.** In consideration of being allowed to encroach in the City's easement areas, Owners, their successors, heirs and assigns, hereby agree to indemnify and hold harmless the City from any damage caused to the subject property, including the fence and any removal of fencing on the subject property, caused in whole or in part by the encroachment into the City's easement areas.

5. **Termination of Agreement.** The City may, at its sole discretion, terminate this Agreement at any time by giving the then owner of the subject property thirty (30) days advance written notice, except that no notice period will be required in the case of an emergency condition as determined solely by the City and the Agreement may then be terminated immediately. The property owner shall remove the fence to the effective date of the termination of this Agreement. If the owner fails to do so the City may remove the fence and charge the cost of removal back to the owner for reimbursement.

6. **Recording.** This Agreement shall run with the land and shall be recorded against the title to the subject property.

IN WITNESS WHEREOF, the Owner(s) have caused this Agreement to be executed as of the day and year first above written (on Page 1).

PROPERTY OWNER # 1

Property Owner # 1

STATE OF MINNESOTA)
) ss.
COUNTY OF)

On this _____ day of _____, 20____, before me a Notary Public within and for said County, personally appeared _____

Notary Public

PROPERTY OWNER # 2

Property Owner # 2

STATE OF MINNESOTA)
) ss.
COUNTY OF)

On this _____ day of _____, 20____, before me a Notary Public within and for said County, personally appeared _____

Notary Public

City of Elko New Market

City Official

Title

City Official Signature

Date

THIS INSTRUMENT WAS DRAFTED BY:

Community Development Department
City of Elko New Market
601 Main Street - PO Box 99
Elko New Market, MN 55020-0099

(S E A L)