



## Community Development Department

**DATE:** April 9, 2024

**FROM:** Ben Ehreth, Community Development Director

**ITEM:** Missouri Township and Bismarck Extraterritorial Jurisdiction Agreement – 2024

**REQUEST:**

The Community Development Department requests that the City of Bismarck enter into a new ETA agreement with Missouri Township to address actions in the existing agreement that are no longer current.

**BACKGROUND INFORMATION:**

North Dakota Century Code allows for cities to extend zoning, subdivision, building inspections, floodplain, and stormwater management authority into unincorporated areas within a certain distance of a city's corporate limits. The purpose of the ETA is to ensure the orderly outward expansion of North Dakota's communities. There are two options allowed by North Dakota Century Code for establishing an extraterritorial boundary. One option is population-based, and for communities of 25,000 or larger, the community has sole authority from the corporate limits to two miles out, and from two to four miles, there is joint authority between the city and the other jurisdiction. The second option allows for a negotiated boundary agreed upon by the city and the other jurisdictions, which would allow the city to retain all permitting authority within the negotiated ETA.

Bismarck presently utilizes a series of negotiated agreements between five different jurisdictions, including Missouri Township, Apple Creek Township, Naughton Township, the City of Lincoln, and Burleigh County. The majority of these agreements are 10 or more years old. There is no statutory requirement to update or amend these agreements, but updates or changes have historically been initiated by one of the jurisdictions involved in the agreement.

The Bismarck Together 2045 Plan recommended meeting periodically to determine if the agreements continue to be appropriate or if changes may be necessary. Additionally, the Bismarck-Burleigh Commission Committee directed staff to meet with all the jurisdictions involved in an ETA agreement with the City of Bismarck. Representatives from all the jurisdictions involved with an ETA agreement met in October 2023 to be informed of the existing agreements and discuss if any changes were necessary. Additionally, representatives agreed to meet on regular two-year intervals as a group to continue to evaluate the current ETA agreements.

No signed agreement with Missouri Township presently exists. The attached agreement was

signed by Missouri Township and reflects past and current practices regarding the administration of Bismarck's ETA in relation to Missouri Township.

Representatives from the City of Bismarck, Missouri Township, and Burleigh County met jointly to discuss proposed changes and all appeared in agreement. The new agreement was approved and signed by Missouri Township and is included as an attachment.

**RECOMMENDED CITY COMMISSION ACTION:**

Consider the request and adopt the proposed Missouri Township and City of Bismarck ETA agreement as reflected in the attached agreement.

**STAFF CONTACT INFORMATION:**

Ben Ehreth, Community Development Director, 701-355-1842, behreth@bismarcknd.gov

**ATTACHMENTS:**

1. Missouri Township Agreement
2. Missouri - Bismarck ETA Agreement Map

**MISSOURI TOWNSHIP AND CITY OF BISMARCK  
EXTRATERRITORIAL JURISDICTION AGREEMENT - 2024**

AGREEMENT between THE CITY OF BISMARCK, a Municipal Corporation, hereinafter referred to as "Bismarck", and MISSOURI TOWNSHIP, an organized township, hereinafter referred to as "Missouri".

WHEREAS, Section 40-47-01.1 North Dakota Century Code (NDCC), Section 40-48-18 NDCC, and Section 58-03-11 NDCC provide for the jurisdiction of Bismarck and Missouri over the zoning of land and generally provide: that Bismarck would have sole extraterritorial authority within two miles of its corporate limits in any direction, that Bismarck and Missouri would have joint jurisdiction with the area from two miles and four miles of Bismarck's corporate limits in any direction in Missouri Township; and that Missouri would have sole jurisdiction within the remainder of the township beyond four miles of Bismarck's corporate limits, and

WHEREAS, Title 14, Section 14-04-19 and Section 14-05-07 of the Code of Ordinances of the City of Bismarck further provide for the jurisdiction of Bismarck over the issuance of building permits and generally provide that Bismarck would have sole extraterritorial authority for such activities within four miles of its corporate limits in any direction in Missouri Township, and

WHEREAS Bismarck and Missouri wish to modify the extraterritorial boundary between the two political subdivisions, and

WHEREAS, Section 40-47-01.1 NDCC provides that political subdivisions may change their authority pursuant to a written agreement and that Bismarck and Missouri have reached such an agreement,

NOW THEREFORE, IT IS AGREED, between Bismarck and Missouri that Missouri shall have sole extraterritorial zoning and building permit jurisdiction within all of Missouri Township, as shown in Exhibit "A" attached hereto and by reference made a part hereof.

IT IS FURTHER AGREED that upon the written request of either party, the terms of the agreement shall be reviewed. Any amendments to the agreement shall be mutually approved by both parties.

IT IS FURTHER AGREED that the term of the agreement shall be for a period of five years from the date of approval of the last signature of a party noted below and shall automatically renew for successive five-year terms unless terminated in writing by notice to the other party at least six (6) months prior to the renewal date.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year written below.

BY: \_\_\_\_\_  
President, Board of City Commissioners

BY: Dan Welch  
Chair, Township Board of Supervisors

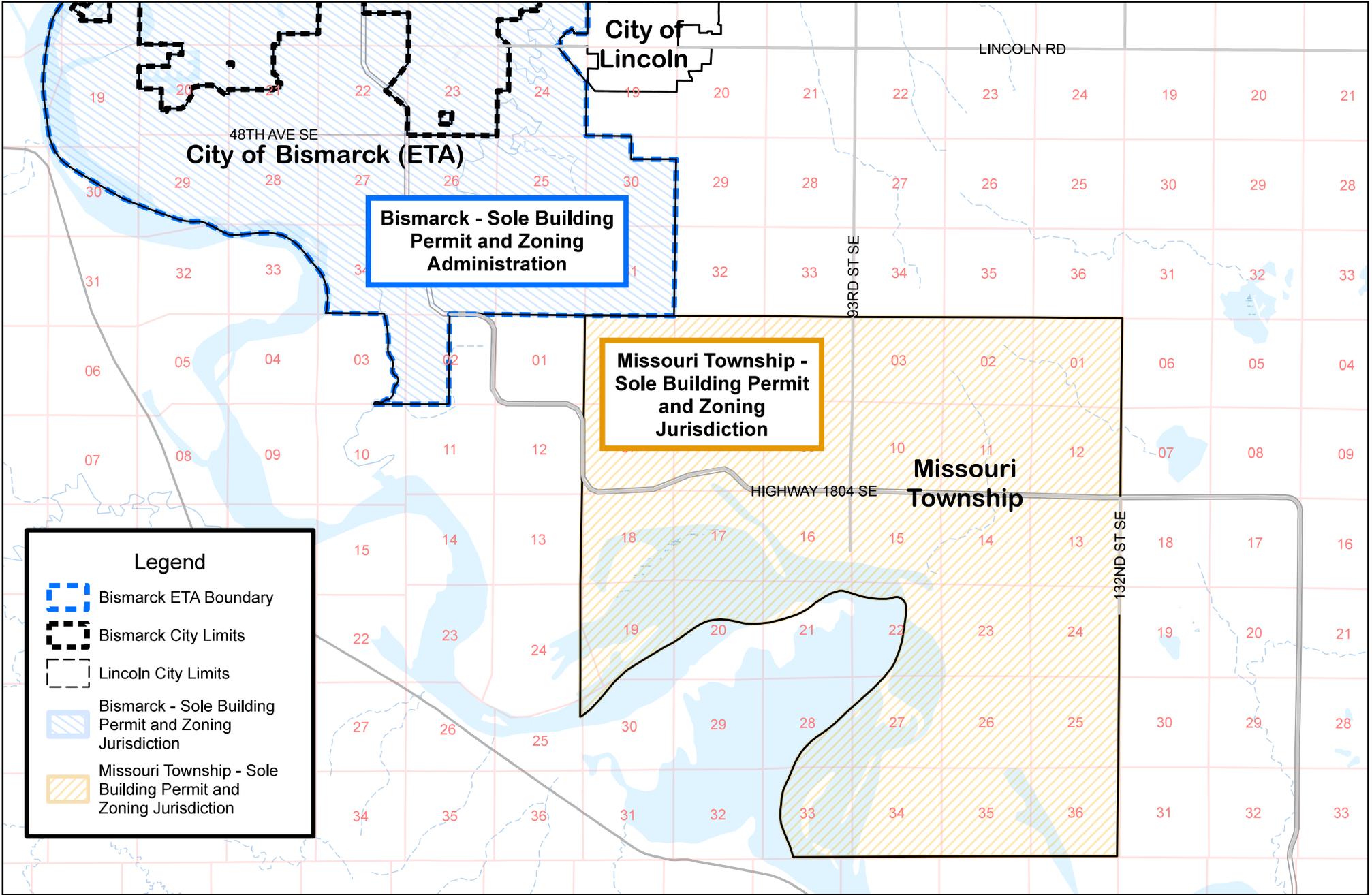
ATTEST: \_\_\_\_\_  
City Administrator

ATTEST: Lee Malard  
Township Secretary

DATE: \_\_\_\_\_

DATE: 3-19-24

# EXHIBIT A



**Legend**

-  Bismarck ETA Boundary
-  Bismarck City Limits
-  Lincoln City Limits
-  Bismarck - Sole Building Permit and Zoning Jurisdiction
-  Missouri Township - Sole Building Permit and Zoning Jurisdiction

This map is for reference only and is not intended as a survey. No liability is assumed as to the accuracy of the data delineated hereon.

