

COMMUNITY DEVELOPMENT
MEMORANDUM

**Planning,
Zoning,
Building Safety,
Construction Inspection
Services,
Public Health,**

To: Mayor and City Council Members
Cc: Gregg Mandsager, City Administrator
Dave Gobin, Community Development Director
From: Andrew Fangman, City Planner
Date: April 7, 2016
Re: Request to Authorize Submission of a Letter Objecting to the Annexation of
Certain City Owned Parcels into Joint Drainage District No. 13

INTRODUCTION: Joint Drainage District No. 13 is proposing to annex thousands of parcels including numerous City owned parcels.

BACKGROUND: On March 7, 2016 Joint Drainage District No. 13 (JDD#13) Muscatine County and Louisa County, Iowa filed a notice of hearing on a proposed annexation, of thousands of parcels including numerous City owned parcels, into JDD#13, with the Muscatine County Auditor. An annexation report, recommending the annexation all parcels that are protected by the Muscatine Island Levee but which are not already within JDD#13, was also placed on file with the Auditor.

JDD#13 operates the pump station, which drains the Muscatine Slough into the Mississippi River, located at the end of the Muscatine Slough in Louisa County, and maintains all portions of the Muscatine Slough west of Houser Street. Currently there are 107 City Owned parcels and right-of-way segments within JDD#13, nearly all of these being a part of or in close vicinity to the Muscatine Municipal Airport. In 2015 the City of Muscatine paid a total of \$7,212 in drainage assessments to JDD#13, these parcels ranged from \$11 to \$605 on individual parcels of right-of-way segments. Additionally as per an agreement signed with JDD#13 the City paid an additional \$5,000 as compensation for drainage discharged by the City stormwater drainage system in Muscatine Slough east of Houser Street.

The annexation being proposed by JDD#13 would add a further 76 City owned parcels and nearly all City right of way south of Hershey Avenue to the district and make them subject to annual assessments. The annual assessment for each parcel or right of way segment would not be determined until the proposed annexation is completed. Because of this, no estimate of the potential cost the City of the proposed annexation can be made.

**"I remember Muscatine for its sunsets. I have never seen any
on either side of the ocean that equaled them" — Mark Twain**

The potential impact of the proposed annexation goes far beyond that to the City of Muscatine as a municipality. Approximately 1,500 parcels within the City of Muscatine, nearly all of the City located south of Hershey Avenue, are being proposed for annexation into JDD#13. Completion of this annexation would make all these properties liable for an annual drainage assessment.

It is not clear what the reasoning of JDD#13 for the proposed annexation is. Nor has the benefits, implications, or costs of such an annexation been communicated by JDD#13. The City has not received any direct communication from JDD#13 in regards to the proposed annexation. The annexation report filed with County Auditor simply contains a report from an engineer stating that all areas protected by the Muscatine Island Levee ultimately drain to the Mississippi River by making use of the JDD#13 pump station, and as such their engineer finds these lands to be eligible, under state law, for annexation into JDD#13.

Because of the lack of communication from JDD#13 on their proposed annexation, it is not currently possible to make the determination if such an annexation would be beneficial or harmful to the City of Muscatine, what the potential cost would be, or indeed if such an annexation is legitimate. State law requires that any objection to annexation into a drainage district be filed in writing with County Auditor prior the drainage district board of trustee meeting at which action on annexation would take place. Failure by a property owner to file such an objection prior to this hearing extinguishes the right to appeal any decision by JDD#13 to proceed with such an annexation.

The JDD #13 Board of Trustees have set the time and place of hearing on said report for April 15, 2016 at 10:00 A.M., at the Fruitland Community Center, 104 Sand Run Road, Fruitland, Iowa. At said hearing the JDD #13 Board of Trustees shall consider such report, plats and profiles and if satisfied that any of such lands are materially benefited by the district and that such annexation is feasible, expedient, and for the public good, it shall proceed to annex said lands to JDD#13.

Because the potential impacts of the proposed annexation could be quite significant, and due to lack of communication from JDD#13 remain largely unknown, City Staff is recommending that City Council direct that a letter of objection to annexation of all City owned parcels and right of way be prepared, with legal advice from the City Attorney, and submitted prior to the April 15th deadline. There has been insufficient public discussion and awareness of a potential action that would create new annual property tax obligation for thousands of property owners.

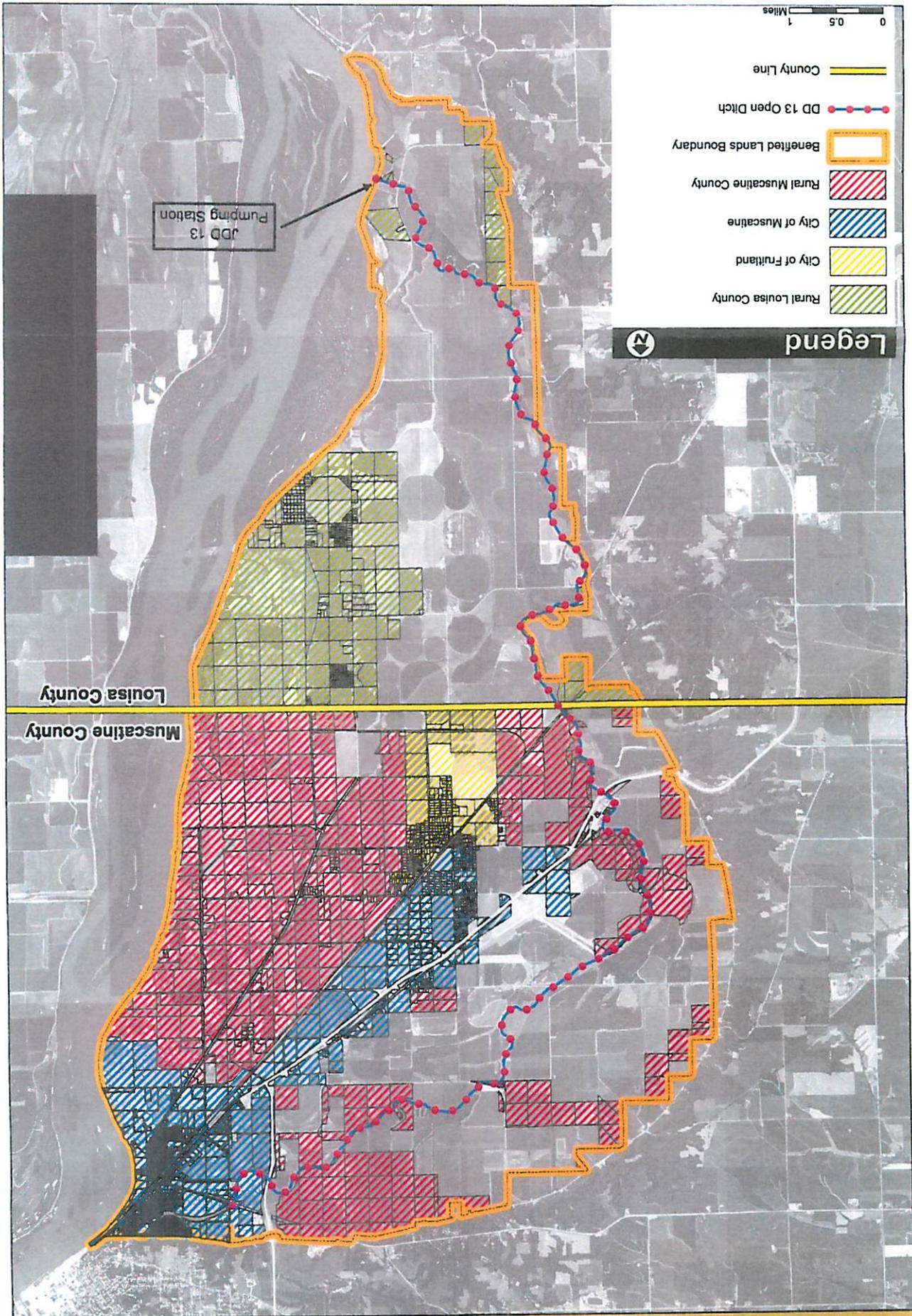
The JDD#13 has not met requirements, set forth in state law, for public notification of potential annexation. Section 468.15 of the Code of Iowa requires that a notification of the annexation of property into a drainage district be mailed to every property area within the proposed annexation area. The City of Muscatine has not received such a written notification, nor has any other potentially impacted property owner. Failure to provide the legal required notification of property grounds is clearly a strong reason for the City of Muscatine to object to this proposed annexation.

Submission of such a letter of objection will keep all options for responding to proposed annexation open, and give staff sufficient time to do this analysis to make a detailed report to council on the potential impact of such an annexation and a recommendation on if the City should appeal any potential annexation by JDD#13.

RECOMMENDATION: To direct staff to prepare and submit a letter objecting to proposed annexation of City Owned property into JDD#13.

BACKUP INFORMATION:

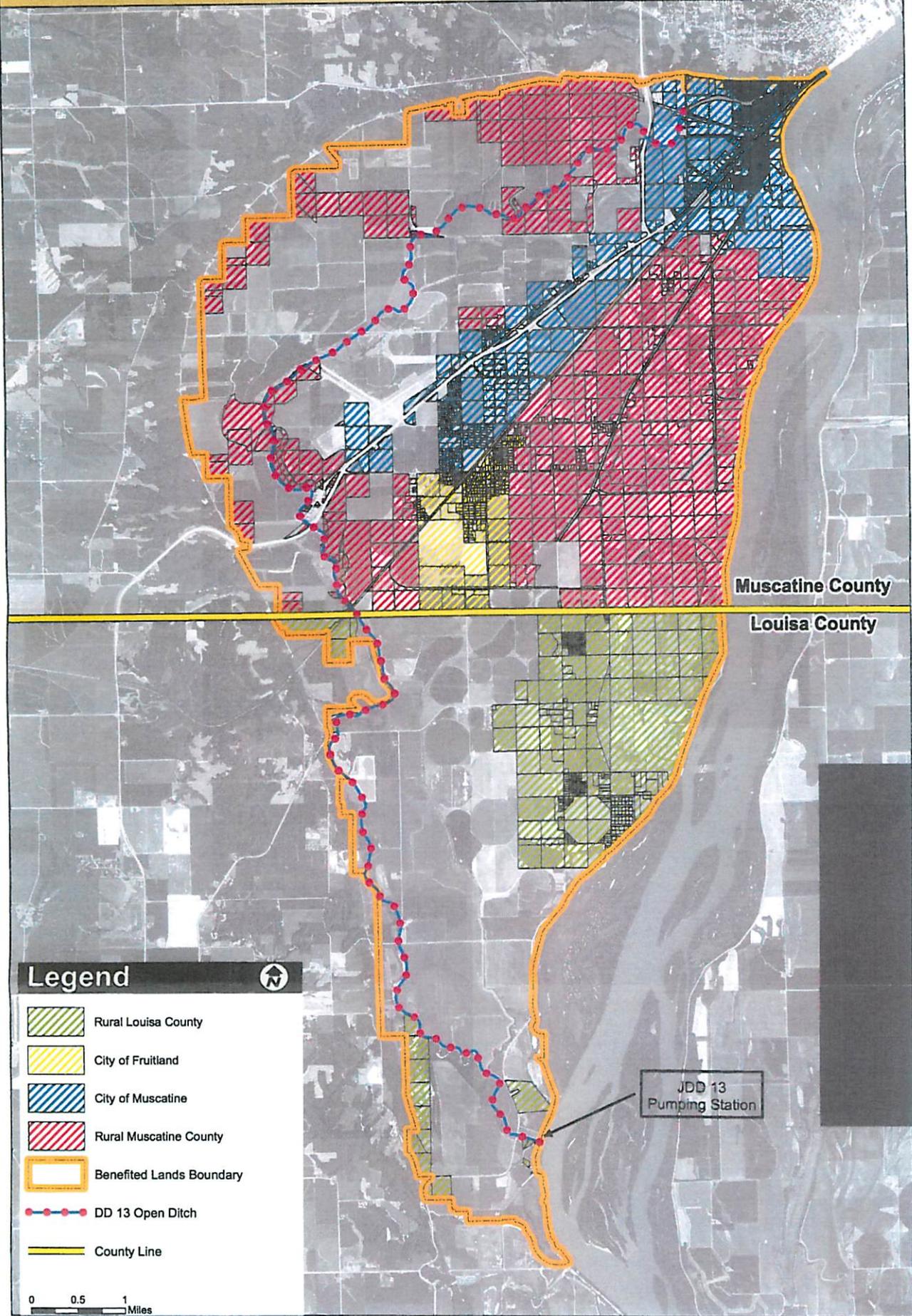
1. Drainage District Annexation Report
2. Drainage District Annexation Map of Proposed Annexation



Lands Recommended for Annexation for Joint Drainage District No. 13

Muscatine and Louisa Counties, Iowa

February, 2016



Muscatine County

Louisa County

Legend

- Rural Louisa County
- City of Fruitland
- City of Muscatine
- Rural Muscatine County
- Benefited Lands Boundary
- DD 13 Open Ditch
- County Line

0 0.5 1 Miles

JDD 13
Pumping Station

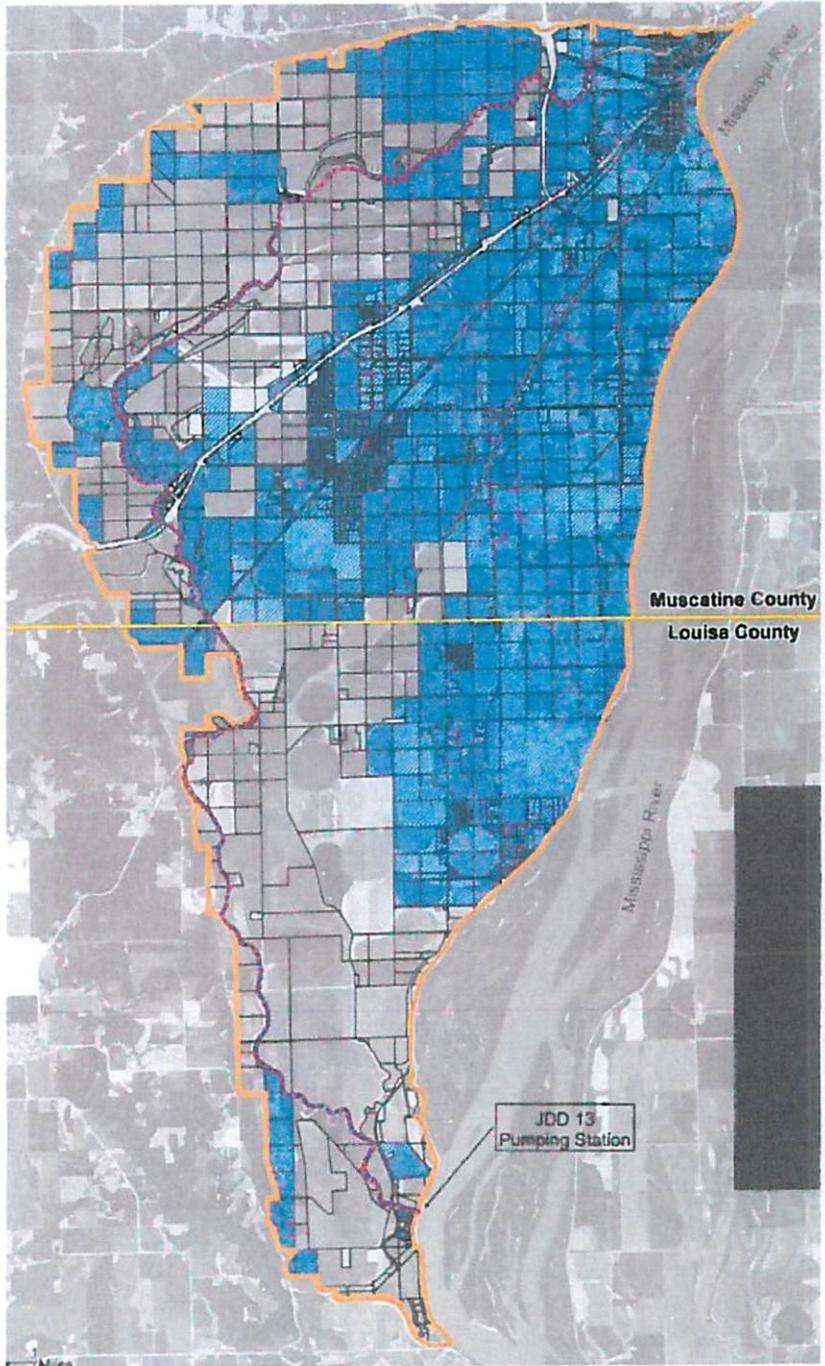
Muscatine and Louisa Counties
Annexation Report

Joint Drainage District No. 13

P11.108198



Submitted by:
Bolton & Menk, Inc.
218 11th Street SW Plaza
Spencer, IA 51301
P: 712-580-5075



CERTIFICATION

ANNEXATION REPORT

Amended February 1, 2016

for

Joint Drainage District 13

Muscatine and Louisa Counties, Iowa

 <p>DONALD. D ETLAR 9383</p>	<p>I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.</p> <p><i>Donald D. Etlar</i> Donald D. Etlar, P.E. _____ Date: <u>Feb 1, 2016</u></p> <p>License No. 9383 My renewal date is December 31, 2017</p> <p>Pages or sheets covered by this seal: <u>Entire document</u></p>
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BOLTON & MENK, INC.

Consulting Engineers & Surveyors

218 11th Street SW Plaza • Spencer, IA 51301

Phone (712) 580-5075

www.bolton-menk.com

February 1, 2016

Re: Engineer's Report
Recommended Annexation of Benefited Lands

The trustees for Joint Drainage District Number 13, hereinafter JDD No. 13, earlier appointed Bolton & Menk, Inc. to investigate and recommend the annexation of benefited lands into JDD No. 13.

During the course of the investigation the engineer reviewed each parcel under consideration for benefit. US Geological Survey maps and drainage district records on file in the County Auditor's office and publicly available elevation information were utilized to determine the elevation and condition of drainage with relation to the facilities of Joint Drainage District No. 13. Based on the information available to the engineer it is recommended that the trustees consider annexation of the parcels described herein.

This engineer finds that the drainage facilities of JDD No. 13 work in harmony with the facilities of the districts responsible for the levees constructed to hold back flood flows of the Mississippi River. The levees block all natural drainage of excess waters from the lands that are protected from flooding by the levees. The pumps and main open ditch of JDD No. 13 were constructed to remove the excess waters generated from these lands and also to remove waters which seep through and under the levees during flood flow periods. Neither of the levee district or JDD No. 13 will adequately provide the drainage relief functions expected of them without the adequate performance of the other. We therefore find that each parcel protected from flood overflows by the levees is also materially benefited by the facilities of JDD No. 13 which remove the excess waters generated from each parcel and from levee seepage, which excess waters, due to the presence of the levees, have no other means of removal.

Set beside each parcel listed as benefited and recommended for annexation is the average ground surface elevation of the parcel. That elevation has been found to be lower in elevation than the top of the levee which protects it from flooding. Being dependent upon the levee for overflow protection the parcel is also dependent upon the facilities of JDD No. 13 to remove excess waters generated therefrom and also to remove levee seepage waters necessary to sustain the function of the levees. Each parcel listed is therefore materially benefited by the facilities of Joint Drainage District No. 13. Each parcel is also materially benefited by an improved outlet brought closer.

Listed for each forty acre or smaller parcel being recommended for annexation are the owner(s) of record and the legal description. Adjoining state and county road rights-of-way which also benefit, will also be made eligible for assessment by this action. Filed with this report is a map of the lands proposed for annexation. The areas of land benefited on each parcel will be determined when the parcels annexed are later assigned classifications.

DESIGNING FOR A BETTER TOMORROW

Bolton & Menk is an equal opportunity employer



Annexation of the lands recommended herein is considered feasible, practicable and for the public good. It is therefore recommended that the Board of Trustees of Joint Drainage District No. 13 take appropriate steps to accomplish the following:

- 1.) Tentatively approve this report.
- 2.) Give notice of and conduct the required hearing or hearings as needed.
- 3.) Annex into the district the lands ultimately determined to be benefited.
- 4.) Appoint benefit commissioners to assign relative classifications to each parcel of the annexed lands.

Respectfully submitted,
Bolton & Menk, Inc.

Donald D. Etler, P.E.

Special Note: This report is intended to fully replace an earlier-filed annexation report dated November 30, 2015.

Amendment A
Annexation Report Date February 1, 2016
Joint Drainage District No. 13
Muscatine and Louisa Counties, Iowa

PARELS TO BE REMOVED

DEEDHOLDER	PARCEL #	LEGAL	AVG elevation
CITY OF MUSCATINE			
MEALY TERRENCE L	1303351006	3/4-76-2 RR ROW PRT BELOW LINE 50' SLY CTR LINE LOTS S &	N/A
HOOPES JOHN R REVOCABLE TRUST 1/2 MARY B REVOCABLE TRUST 1/2	1320126001	NE NW	N/A
HOOPES JOHN R REVOCABLE TRUST 1/2 MARY B REVOCABLE TRUST 1/2	1320200001	NW NE	N/A
HOOPES JOHN R REVOCABLE TRUST 1/2 MARY B REVOCABLE TRUST 1/2	1320200002	EX 1 A TRACT ALONG RD NE NE N & W OF RR	N/A
HOOPES JAMES D OR GLORIA	1320176002	IRR TRACT W OF RR S 1/2 N 1/2	N/A
HOOPES JAMES D OR GLORIA	1320176003	TRACT SW COR SE NW	N/A
CITY OF FRUITLAND			
BARTENHAGEN LEROY M OR PATRICIA	1225400008	11.7 AC SE COR SE SE EX S 295.16 OF E 295.16'	N/A
PACIFIC VISIONS CONTRACTORS LLC	1330351013	EX WENOGAH SD & WENOGAH SD PHASE II PARCEL D SW 1/4	N/A
PACIFIC VISIONS CONTRACTORS LLC	1330301003	S 60' W 363' NW SW	N/A
LEOPARD ARNOLD L OR KATHLEEN R	1330404028	N 196' LOT G MOORES SD W 1/2 SE	N/A
ELSHOFF PAUL E OR LINDA C	1330404029	LOT 7 ABAN RR NW SE & SW SE	N/A
AHLF LISA A	1330404030	(EX S 200' & EX N 196') LOT G MOORES SD W 1/2 SE	N/A
LESSENGER BRANDON	1331201002	EX S 100' LOT 13 PLAT OF SURVEY NW NE	N/A
MARTIN JENNIFER A	1331201005	S100' LOT 13 PLAT OF SURVEY NW NE	N/A
RURAL MUSCATINE COUNTY			
BARTENHAGEN LEROY M OR PATRICIA	1225400008	11.7 AC SE COR SE SE EX S 295.16 OF E 295.16'	N/A
ROCK DONNA ETAL	1235300005	S 9.50 NE SW (EX RD)	N/A
RAMOS ROSENDO SR OR STACEY J	1332200001	NW NE N & W OF RD	N/A
MUSCATINE CITY OF	1321100004	E 19.70 AC NE NW	N/A
MARTIN JAMES C	1215400003	N 10 AC NE SE	N/A
MARTIN JAMES C	1215200012	S 17.25 AC E OF RD SE NE	N/A
BLOCK W G CO	1322100001	(EX IRR TRACT NE COR) NW NW	N/A
BLOCK W G CO	1322100004	SW NW	N/A