

BEFORE THE

MINNESOTA BOUNDARY ADJUSTMENTS OFFICE
OF THE DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE DESCRIPTION OF)	
AN UNINCORPORATED AREA IN CASCADE)	
TOWNSHIP AS IN NEED OF ORDERLY)	
ANNEXATION AND CONFERRING JURISDICTION)	JOINT RESOLUTION FOR
OVER SAID AREA ON MINNESOTA)	ORDERLY ANNEXATION
BOUNDARY ADJUSTMENTS OFFICE)	
OF THE DEPARTMENT OF ADMINISTRATION)	
PURSUANT TO MINNESOTA STATUTES)	
SECTION 414.0325, Subd. 1)	

JOINT RESOLUTION / ORDERLY ANNEXATION AGREEMENT

THIS ORDERLY ANNEXATION AGREEMENT is entered into this 3rd of May, 2004, by and between the CITY OF ROCHESTER, MINNESOTA (the "City") and CASCADE TOWNSHIP (the "Township").

WHEREAS, Minn. Stat. § 414.0325 authorizes townships and municipalities to provide for the orderly annexation of unincorporated areas that are in need of orderly annexation; and,

WHEREAS, the City and the Township agree that there is a public need for the coordinated, efficient and cost effective extension of the City services to promote the public health, well being, and safety; and,

WHEREAS, the property described in the attached Exhibit "A" (hereinafter referred to as "Annexation Area") is presently urban or suburban in nature or about to become so, and the City is capable of providing City services within a reasonable time; and,

WHEREAS, the extension of City services can only be provided in prioritized phases and if the process and timing of annexation is clearly identified and jointly agreed upon in advance of the City's capital planning, commitment and expenditure; and,

WHEREAS, the establishment of a process of orderly annexation of said lands will be of benefit to the owners of said lands, and permit the City to extend necessary municipal services in a planned and efficient manner; and,

WHEREAS, the City and the Township desire to accomplish the orderly annexation of the Annexation Area and the extension of municipal services in a mutually acceptable and beneficial manner without the need for a hearing before the Municipal Boundary Adjustments

Office of the Minnesota Department of Administration (MBA) or its successor (this reference to the MBA is intended to include this or any other agency succeeding the Minnesota Municipal Board) and, with the purpose of avoiding an annexation dispute, enter into this joint resolution for orderly annexation pursuant to Minnesota Statutes 414.0325, Subd. 1.

NOW, THEREFORE, BE IT RESOLVED by the City of Rochester and the Township that the parties enter into this Joint Resolution Orderly Annexation Agreement (hereinafter referred to as "Agreement") and agree to the following terms:

1. The City and Township hereby designate that property situated in the Annexation Area as in need of orderly annexation pursuant to Minnesota Statutes 414.0325. The legal description for the Annexation Area is provided on Exhibit "A" attached hereto. A map of the Annexation Area is provided in Exhibit "B" attached hereto for the convenience of the parties.

2. Annexation of land within the Annexation Area.

(A) The City shall have the right to annex by resolution any land within the Annexation Area at any time subject only to the annexation provisions of this agreement and when such land meets one or more of the following criteria:

- (i) a majority of the property owners in a subdivision (defined as all of the lots on an individual plat filed for record in the Olmsted County Recorder's Office) in which one or more parcels are contiguous to the City, or a majority of the property owners of a contiguous parcel of land located entirely within the Annexation Area petition for annexation;
- (ii) the City decides to add an arterial or collector road to its Municipal State Aid Street System that is designated on the ROCOG Thoroughfare Plan, but only to the extent of the right-of-way needed for said road and such land annexed for right-of-way purposes by itself shall not be used as the basis for surrounding an area to allow annexation by ordinance;
- (iii) the City determines by resolution that land, right-of-way or easements are needed for a public works improvement project designed to provide sanitary sewer pumping and conveyance facilities, water supply, water storage or water conveyance facilities, stormwater retention, stormwater detention or stormwater conveyance facilities, but only to the extent needed for said facilities and such land annexed for public improvement facility purposes by itself shall not

be used as the basis for surrounding an area to allow annexation by ordinance;

- (iv) the City receives an annexation petition from a landowner;
or
 - (v) the City owns the land.
- (B) The City may, by resolution, annex land within the Annexation Area which is completely surrounded by property within the City, without a petition from a majority of the owners of such property.

3. The Township will not file any objection with the MBA concerning the City's annexation of any land within the Annexation Area so long as the annexation complies with the terms and conditions of this Agreement. If the Township has already filed such an objection with the MBA, the filing of this Agreement with the MBA shall constitute withdrawal of the objection.

4. The City will initiate annexation pursuant to this Agreement by City Council resolution ("Annexation Resolution"). The City Planning and Zoning Commission is not required to review the City's adoption of an Annexation Resolution. The Annexation Resolution must be filed with the MBA, the Township and the Olmsted County Auditor/Treasurer. The Annexation Resolution must contain the boundary description of the area to be annexed and, pursuant to Minn. Stat. §§ 414. 01, subd. 4, and 414.0325, subd. 1a, must contain the City's estimates of the population and number of households in the area to be annexed. It must also contain a cost estimate of any change in electrical utility services, including rate changes and assessments which might occur from the annexation. The resolution must also identify one or more paragraphs of this Agreement which authorize such annexation.

5. Upon the filing of the Annexation Resolution with the MBA, the parties will not request any alteration of the boundaries of the land to be annexed or any change in the annexation of the land not provided for in this Agreement. The MBA may review and comment on the Annexation Resolution, but may not otherwise consider the resolution or alter the annexation boundaries. Within 30 days of receipt of the Annexation Resolution, the MBA must order the annexation of the area described in the Annexation Resolution in accordance with the terms and conditions of this Agreement.

6. Lands ordered annexed pursuant to this Agreement will not be subject to any differential taxation as referenced in Minnesota Statutes 414.035. Property taxes payable on annexed land shall continue to be paid to the Township for the entire year in which the annexation becomes effective. If the MBA's order approving the annexation becomes effective on or before August 1 of a levy year, the City may levy on the annexed area beginning with that same levy year. If the MBA's order becomes effective after August 1 of a

levy year, the Township may continue to levy on the annexed area for that levy year. Thereafter, property taxes on the annexed land must be paid to the City.

7. The City is not obligated to make any property tax reimbursements to the Township.

(A) After annexation there shall be no further payments made to the Township for annexed property under this Agreement.

8. Nothing in this Agreement relieves the Township of its governmental responsibilities for the Annexation Area, including but not limited to the regular and normal maintenance of the existing infrastructure of roads, drainage facilities, and street signs. The Township's continuing governmental responsibilities for an annexed area continue until the date of the MBA's order approving the annexation.

9. The continued investment of public funds to maintain public roads is an essential function of the local government. Recognizing such obligation, the Township will maintain public roads within the Annexation Area in a satisfactory condition. The City will name the Township as an additional insured party in the owner contracts for the construction of public infrastructure in cases that development takes access from a Township road. The Township must crack-fill, seal-coat and overlay all paved Township roads in the Annexation Area on a preventive maintenance schedule. If the City annexes a Township roadway before the expiration of the useful life of any major maintenance activity undertaken after the adoption of this agreement, the City will reimburse the Township for the pro rata cost of the remaining useful life, as determined consistent with Exhibit "C", of the major maintenance activity. For purposes of this agreement, a major maintenance activity shall be one that had a total cost of \$10,000 or more. Exhibit "C" is attached to this Agreement to show the preventive maintenance schedule and the manner in which pro rata costs will be calculated.

10. In instances in which a City subdivision takes direct connection onto a Cascade Township roadway and the subdivision traffic results in increased annual Township maintenance costs for that segment of roadway as determined by the County Engineer, the City agrees to provide an annual maintenance contribution to Cascade Township for the actual increased maintenance costs as determined by the County Engineer up to but not more than \$10,000 per mile of roadway. Roadway segment shall be defined as that portion of a Cascade Township roadway that extends between the intersections of two public roads at either end of the segment.

11. All utility extensions within the Annexation Area will be consistent with the City's policies concerning the extension of municipal utilities.

12. The City will construct and provide water, sanitary sewer, storm sewer and street improvements to the Annexation Area as requested by the owner, pursuant to state and local law, at the discretion of the City and based on the City's policies then in effect.

13. The City and Township agree that the City's zoning and subdivision authority do not apply within the Annexation Area until the time of annexation.

14. The Township will take no action to grant permits, issue variances, vacate roadways or easements or any other such action that is in direct conflict of providing proper utility extensions, roadway access management, or roadway connections along City roadways, and roadway connections or extensions of township roadways which are planned to connect to city roadways.

15. This Agreement provides the exclusive procedure by which the unincorporated property identified in the Annexation Area may be annexed by the City.

16. This Agreement will terminate when the parties adopt a joint resolution of termination, when all of the land within the Annexation Area is annexed to the City, or on January 1, 2025, whichever occurs first.

17. Disputes concerning this Agreement shall be resolved as follows:

- (A) Negotiation. When a disagreement over interpretation of any provision of this Agreement occurs, City and Township staff members must meet at least once at a mutually convenient time and place to attempt to resolve the dispute through negotiation.
- (B) Mediation. When the parties are unable to resolve a dispute, claim or counterclaim, or are unable to negotiate an interpretation of any provision of this Agreement, the parties may mutually agree in writing to seek relief by submitting their respective grievances to non-binding mediation.
- (C) Adjudication. When the parties are unable to resolve a dispute, claim, or counterclaim, or are unable to negotiate an interpretation of any provision of this Agreement or are unable to agree to submit their respective grievances to non-binding mediation, either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to the remedies provided for in this Agreement and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this Agreement, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Agreement in accordance with its terms.

18. This Agreement may not be modified, amended, or altered except upon written joint resolution of the City and the Township duly executed and adopted by the City Council and Township Board of Supervisors, and filed with the MBA.

19. This Agreement is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota. In the event any provision of this Agreement is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

20. The terms, covenants, conditions, and provisions of this Agreement, including the present and all future attachments, shall constitute the entire agreement between the parties, superseding all prior agreement and negotiations, regarding the Annexation Area. There are no understandings, agreements or assumptions other than the written terms of this Agreement.

21. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Township. Specifically, this Agreement is binding upon the governmental entity that survives or is created by the Township's action to merge, consolidate, detach, annex, reorganize or incorporate.

22. This resolution shall be effective immediately upon its adoption by the parties and its filing with the MBA. This Agreement shall terminate as provided in paragraph 16 of this Agreement, except that the tax sharing obligations of the City arising under this Agreement shall survive the termination of this Agreement until such obligations have been completely fulfilled.

23. Any notices required to be sent under the terms of this agreement shall be considered sufficient notice if mailed by first class U.S. mail to the City of Rochester, City Administrator's Office, 201 4th Street SE, Rochester, MN 55904; and to the Cascade Township Clerk.

24. Properties located in Exhibits A and B shall be subject to the payment of development related charges associated with publicly provided infrastructure for sanitary sewer, watermain, water towers, storm sewer, roadway improvements, storm water management and parkland. Charges for property located outside of the corporate limits of the City of Rochester (Exhibits A and B) shall be deferred until such time as the property is annexed and/or developed. Costs for said improvements shall be based on the policies in effect for the City of Rochester at the time of development. Property within the corporate limits of the City of Rochester are also subject to development related charges as outlined above. Payments for related infrastructure shall be made pursuant to levied assessments for the infrastructure or at the time of the property's development. Costs for said improvements shall be based on the policies in effect for the City of Rochester at the time of development or as established in the assessment procedures.

JUN 04 2004

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS 17th DAY OF May, 2004.

ATTEST:

Deputy

CITY CLERK

John Hunziker
PRESIDENT OF ROCHESTER COMMON COUNCIL

APPROVED THIS 18th DAY OF May, 2004.

Walter F. Brede
MAYOR OF CITY OF ROCHESTER

(Seal of the City of
Rochester, Minnesota)

PASSED AND ADOPTED BY CASCADE TOWNSHIP, OLMSTED COUNTY,
MINNESOTA, THIS 3rd DAY OF May, 2004.

ATTEST:

TOWN CLERK

Leonard J. Jarama
CHAIRMAN OF TOWN BOARD

This document prepared by:

Rochester City Attorney's Office
201 Fourth Street S.E., Room 247
Rochester, MN 55904

EXHIBIT A

REC'D BY
MMB

JUN 04 2004

Wednesday, March 24, 2004

Jon Whitcomb
Wesley Investments

Re: Rochester Annexation

Dear Jon:

The following Legal Descriptions represent the areas that are to be annexed into the City of Rochester from Cascade Township.

KREBSBACH PARCEL

The Northeast Quarter of the Southeast Quarter of Section 18,
Township 107 North, Range 14 West, Olmsted County, Minnesota.

AND

That part of the South Half of the Northeast Quarter of Section 18, Township 107 North, Range 14 West, Olmsted County, Minnesota described as follows: Beginning at the southeast corner of said Northeast Quarter; thence on an assumed bearing of North 01 degrees 03 minutes 23 seconds West, along the east line of said Northeast Quarter, 294.71 feet; thence South 88 degrees 56 minutes 37 seconds West 417.42 feet; thence North 01 degree 03 minutes 23 seconds West 208.71 feet; thence North 88 degrees 56 minutes 37 seconds East, 417.42 feet to the east line of said Northeast Quarter; thence North 01 degree 03 minutes 23 seconds West, along said east line, 486.22 feet to a point 1649.67 feet south of the of the northeast corner of the Northeast Quarter, said point being the southeast corner of WEDGEWOOD HILLS FOURTH; thence South 89 degrees 29 minutes 46 seconds West, along the south line of said WEDGEWOOD HILLS FOURTH and its westerly extension, to the west line of said Northeast Quarter;

EXHIBIT A

REC'D BY
MMB

JUN 04 2004

thence southerly along said west line to the southwest corner of said Northeast Quarter; thence easterly along the south line of said Northeast Quarter to the point of beginning.

EXCEPT that part of the above described property described as follows: Commencing at the southeast corner of said Northeast Quarter; thence westerly on an assumed azimuth from grid north of 269 degrees 29 minutes 54 seconds along the south line of said Northeast Quarter 60.00 feet; thence northerly 358 degrees 56 minutes 37 seconds azimuth parallel with the east line of said Northeast Quarter 44.64 feet to the point of beginning; thence northerly 358 degrees 56 minutes 37 seconds azimuth 249.49 feet; thence westerly 269 degrees 56 minutes 37 seconds azimuth 357.43 feet; thence northerly 358 degrees 56 minutes 37 seconds azimuth 208.71 feet; thence easterly 88 degrees 56 minutes 37 seconds azimuth 357.43 feet; thence northerly 358 degrees 56 minutes 37 seconds azimuth 486.79 feet to the south line of Wedgewood Hills Fourth, according to the plat thereof on file at the County Recorder's office, Olmsted County, Minnesota; thence westerly 269 degrees 29 minutes 46 seconds azimuth along said south line 1091.75 feet; thence southerly 179 degrees 21 minutes 34 seconds azimuth 165.00 feet; thence easterly 89 degrees 29 minutes 08 seconds azimuth 65.30 feet; thence southeasterly 117.16 feet on a tangential curve concave southwesterly, having a radius of 150.00 feet and a central angle of 44 degrees 45 minutes 04 seconds; thence southeasterly 134 degrees 14 minutes 12 seconds azimuth 198.99 feet; thence southeasterly 90.77 feet on a tangential curve concave northeasterly, having a radius of 200.00 feet and a central angle of 26 degrees 00 minutes 09 seconds; thence southerly 198 degrees 14 minutes 01 seconds azimuth 73.68 feet; thence southwesterly 68.08 feet on a tangential curve concave northwesterly, having a radius of 150.00 feet and a central angle of 26 degrees 00 minutes 12 seconds; thence southwesterly 224 degrees 14 minutes 16 seconds azimuth 109.02 feet; thence southeasterly 121 degrees 03 minutes 18 seconds azimuth 662.24 feet; thence easterly 89

EXHIBIT A

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degrees 04 minutes 29 seconds azimuth 283.28 feet to the point
of beginning. (previously annexed to the city)

LEQUE PARCEL-NORTH

The South Half of the Southwest Quarter of Section 18, Township
107 North, Range 14 West, Olmsted County, Minnesota

ZEIMETZ PARCEL

The West Half of the Southeast Quarter of Section 18, Township
107 North, Range 14 West, Olmsted County, Minnesota

AND

The Southeast Quarter of the Southeast Quarter of Section 18,
Township 107 North, Range 14 West, Olmsted County, Minnesota.

TILL PARCEL

The East Half of the Northeast Quarter of Section 19, Township
107 North, Range 14 West, Olmsted County, Minnesota

AND

The Northwest Quarter of the Northeast Quarter of Section 19,
Township 107 North, Range 14 West, Olmsted County, Minnesota.

EXHIBIT A

REC'D BY
MMB

JUN 04 2004

HEWLETT PARCEL

The Southwest Quarter of the Northeast Quarter of Section 19,
Township 107 North, Range 14 West, Olmsted County, Minnesota.

BADGER PARCEL

That part of the South Half of the Northwest Quarter of Section 19, Township 107, Range 14, Olmsted County, Minnesota, described as follows: Beginning at the southwest corner of said Northwest Quarter and running thence East along the South line thereof, a distance of 1665.00 feet; thence northerly parallel to the west line of said South Half a distance of 1320 feet more or less to the north line of said South Half of the Northeast Quarter; thence East along said north line a distance of 845.3 feet to the northeast corner of said South Half; thence South along the east line of said South Half to the southeast corner of said South Half; thence west along the south line of said South Half to the point of beginning.

CROSS PARCEL

That part of the South Half of the Northwest Quarter of Section 19, Township 107, Range 14, Olmsted County, Minnesota, described as follows: Beginning at the southwest corner of said Northwest Quarter and running thence East along the South line thereof, a distance of 1170.00 feet; thence northerly at right angles to the said south line a distance of 1320 feet more or less to the north line of said South Half of the Northeast Quarter; thence West along said North line a distance of 1170.00 feet; thence South along the West line to the point of beginning; EXCEPT that part which lies South and West of the public Road and ALSO EXCEPT the North 220.00 feet of the West 500.00 feet thereof.

EXHIBIT B

REC'D BY
MMB

JUN 04 2004

