

MAY 02 2014

BEFORE THE

MINNESOTA BOUNDARY ADJUSTMENTS OFFICE
OF THE DEPARTMENT OF ADMINISTRATION

IN THE MATTER OF THE DESCRIPTION OF)	
AN UNINCORPORATED AREA IN _____)	
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 22 day of April, 2014, 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 designate an area as 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 residents and 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 Chief Administrative Law Judge

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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 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 may, by resolution, annex 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 contiguous parcels of land located entirely within the Annexation Area petition for annexation;

(ii) 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;

(iii) the City receives an annexation petition from a landowner; or

(iv) 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, provided that all of the following criteria are met as to such land:

- (i) The land has been completely surrounded by land within the City for a period of at least two years prior to the annexation of the surrounded land; and
- (ii) Land annexed pursuant to paragraphs 2(A)(ii) or 2(A)(iii) is excluded from the determination of whether the surrounded land is completely surrounded by land within the City.

(C) The City may annex any property that is included in this Orderly Annexation Area that has become developed with any structures requiring sewage treatment facilities, under an approved City of Rochester Interim Development Agreement at any time after 10 years from the date of this agreement provided municipal water and sewer services are available.

3. The Township will not file any objection with the Chief Administrative Law Judge 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 an objection is filed and the Chief Administrative Law Judge determines that the annexation does not comply with the terms and conditions of this Agreement, no annexation shall be ordered.

4. If the City intends to annex a parcel of property in the Annexation Area, the City shall, not less than 14 days prior to any Council action, submit to the Township the following:

- (A) The legal description of the property to be annexed and a map of the property to be annexed;
- (B) A description of the proposed use of said property if known; and
- (C) Any General Development Plan for the parcel to be annexed, if one has been submitted to the City.
- (D) An indication of what provision of this Agreement authorizes the annexation.

5. 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 Chief Administrative Law Judge, 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. 14, 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.

6. Upon the filing of the Annexation Resolution with the Chief Administrative Law Judge, 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 Chief Administrative Law Judge 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 Chief Administrative law Judge must order the annexation of the area described in the Annexation Resolution in accordance with the terms and conditions of this Agreement.

7. 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 Administrative Law Judge'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 Administrative Law Judge'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.

8. There shall be no property tax re-imbursement payments to the Township for land within the Orderly Annexation Agreement Area that are annexed to the City.

9. Interim development will be permitted within the Annexation Area only if the interim development complies with the following:

(A) An Interim Development Agreement that is prepared and approved by the City of Rochester will be required to be entered into by the property owner with the City of Rochester prior to approval and issuance of any building or development permits by Olmsted County or Cascade Township for any interim development within this Orderly Annexation area. For purposes of this agreement "interim development" shall mean any development that occurs (i) outside the City; (ii) after the date of this Agreement; and (iii) before the availability of city water or sanitary sewer services located within the Rochester Urban Service Area delineated on Exhibit C to this Agreement.

(B) the development complies with the Olmsted County Land Use Plan dated March 8, 2011 and any amendments approved by the Olmsted County Board and the corresponding Olmsted County Future Land Use Map ("Land Use Plan") ; and

(C) the development complies with any applicable General Development Plan for the project or area as approved by the City, the City's subdivision controls, capital improvement standards and zoning regulations.

10. If the development complies with paragraph 11 of this Agreement, the Township and the County may approve an interim development provided that the developer enters into a City-approved Connection Agreement (CA) and Interim Development Agreement (IDA).

11. The IDA must provide (but is not limited to) the following:

- (A) that the land upon which the development is located may be annexed to the City at the City's discretion pursuant to paragraph 2(C) of this agreement;
- (B) provision of potable water supply through a water well approved by Olmsted County;
- (C) the developer will construct a Township and City-approved sewer system and sewage treatment system, which must be fully compatible for incorporation into the City's public sewer system.
- (D) the developer will construct, create an escrow account for, or pay a fee to the City an amount equal to the cost of providing any and all on-site and off-site capital improvements or facilities (such capital improvements being substantially similar to the types of capital improvements required of developments within the City contemporaneous with the Interim Development) in an amount as reasonably determined by the City, including, but not limited to, public sanitary sewer and watermain, roads, bicycle and pedestrian facilities, storm drainage and, stormwater management facilities, and parks/recreational space that are required to provide the public infrastructure and services needed to serve the Annexation Area;
- (E) if requested by the City and consistent with requirements of City development policies and regulations were the property located in the City, the developer will extend these public facilities through the development to serve adjacent properties;
- (F) property located in the Annexation Area will be subject to the payment of development related charges associated with publicly provided infrastructure. This infrastructure includes, but is not limited to, sanitary sewer, watermain, water towers, storm sewer, roadway improvements, storm water management and parkland. The charges become due and payable per Development Agreement or, after annexation and upon development or connection to city utilities; and
- (G) payments for related infrastructure improvements must be made pursuant to standardized charges at the time of development of the

property. These standardized charges are those based upon the City of Rochester policies in effect at the time of development.

12. The City intends to study and review the future orderly development of that portion of Cascade Township that lies northerly of 65th St. NW in 2014 and 2015 in conjunction with the completion of a new Sanitary Sewer Study and Comprehensive Plan for the City of Rochester. The City does not intend to approve additional interim development proposals for properties in Cascade Township that are not included within the Annexation Area identified on Exhibit C prior to December 31, 2015.

13. 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 Administrative Law Judge's order approving the annexation.

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

15. 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. The City will also consider the execution of an Owner Contract to provide for the Developer's construction of those improvements.

16. The City's zoning and subdivision authority does not apply within the Annexation Area until the time of annexation, with the exception of general development planning as a guide to the land subdivision process. However, the Township shall forward any zoning or subdivision applications to the City for review and comment prior to Township action on such application. Except as otherwise provided in this Agreement, the Township retains land use and zoning controls in the Annexation Area.

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

18. The Township and City will meet at least once every five years to review the status of the annexation and development of the Annexation Area. A request from either party to this Agreement will be sufficient to initiate the review meeting.

19. 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, 2034, whichever occurs first.

20. 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.

21. 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 Chief Administrative Law Judge.

22. 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.

23. 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.

24. 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.

25. This resolution shall be effective immediately upon its adoption by the parties and its filing with the Chief Administrative Law Judge.

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26. 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, 2025 75th Street NE, Rochester, MN. 55906.

27. Properties in the Annexation Area 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 shall be deferred until such time as the property is annexed and developed unless otherwise documented in a Development Agreement. 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.

28. Upon adoption and execution of this Joint Resolution, the City shall file the same with the Department of Administration Municipal Boundary Adjustments Office and pay the required filing fee.

29. In the event there are errors, omissions or any other problems with the legal description provided in Exhibit A or mapping provided in Exhibit B, in the judgment of the Department of Administration, the City and Township shall make such corrections and file any additional documentation, including a new Exhibit A or Exhibit B making the corrections requested or required by the Department of Administration.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS 21 DAY OF April, 2014

ATTEST: Aaron S. Keen
CITY CLERK
Randy Thayer
PRESIDENT OF ROCHESTER COMMON COUNCIL

APPROVED THIS 22 DAY OF April, 2014.

Kevin F. Bieda
MAYOR OF CITY OF ROCHESTER

(Seal of the City of

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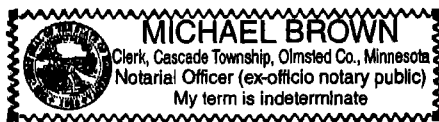
Rochester, Minnesota)

PASSED AND ADOPTED BY Cascade TOWNSHIP, OLMSTED COUNTY,
MINNESOTA, THIS 29 DAY OF April, 2014

J. Laurus
CHAIRMAN OF TOWN BOARD

ATTEST:

Michael Brown
TOWN CLERK



Rec'd 9-25-14

REVISED EXHIBIT A

**LEGAL DESCRIPTION OF PROPERTIES IN 2014 CASCADE TOWNSHIP
ORDERLY ANNEXATION AREA**

That part of the NW $\frac{1}{4}$, Section 4, lying west of T.H. 52

And also;

That part of the Southwest Quarter of Section 4, Township 107 North, Range 14 West, Olmsted County, Minnesota described as follows:

Commencing at the northwest corner of said Southwest Quarter, thence on an assumed bearing of North 89°11'09" East, along the north line of said Southwest Quarter 1071.07 feet to the northeast corner of Lot 3, Block 2, PRAIRIE CROSSING WEST, according to the recorded plat thereof and the point of beginning; thence South 13°45'16" East, along the east line of said Lot 3 and Lot 2, said Block 2 a distance of 625.18 feet to the corner of said Lot 2; thence North 76°14'44" East, along the north line of said Lot 2 a distance of 201.00 feet to the northeast corner of said Lot 2 and the westerly line of MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 55-63; thence northerly along said west line to the intersection with said north line of the Southwest Quarter; thence South 89°11'09" West, along said north line to the point of beginning.

And also;

That part of the NE $\frac{1}{4}$ Section 5, described as follows:

Commencing at the NE corner of the NE $\frac{1}{4}$, Section 5, thence west 1080 feet, thence south 1613.5 feet, thence east 1080 feet, thence north 1613.5 feet to the point of beginning; Township 107 North, Range 14 West, Olmsted County, Minnesota.

Exhibit B – 2014 Cascade Township OA Agreement Annexation Area Map

REC'D BY
MBA

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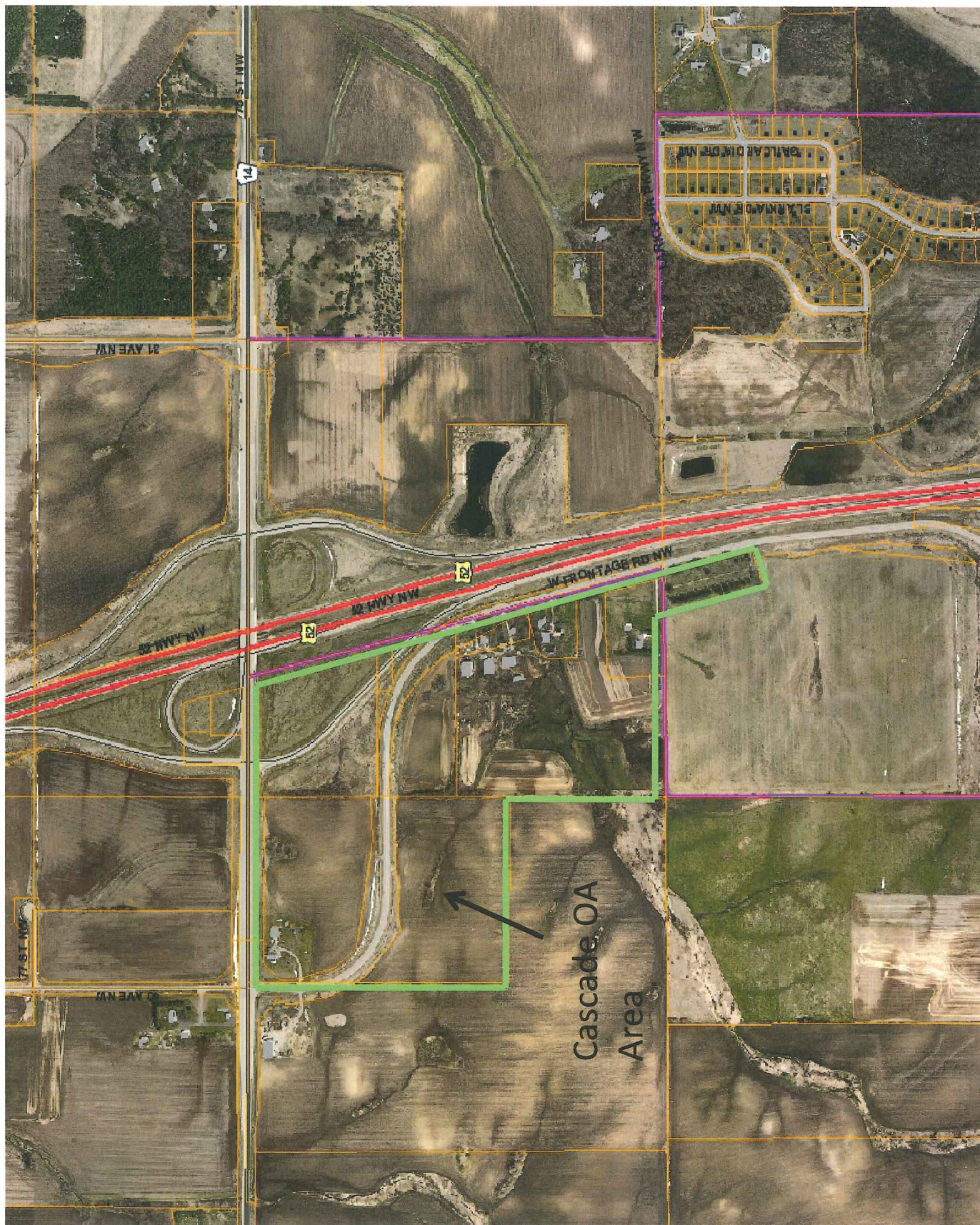
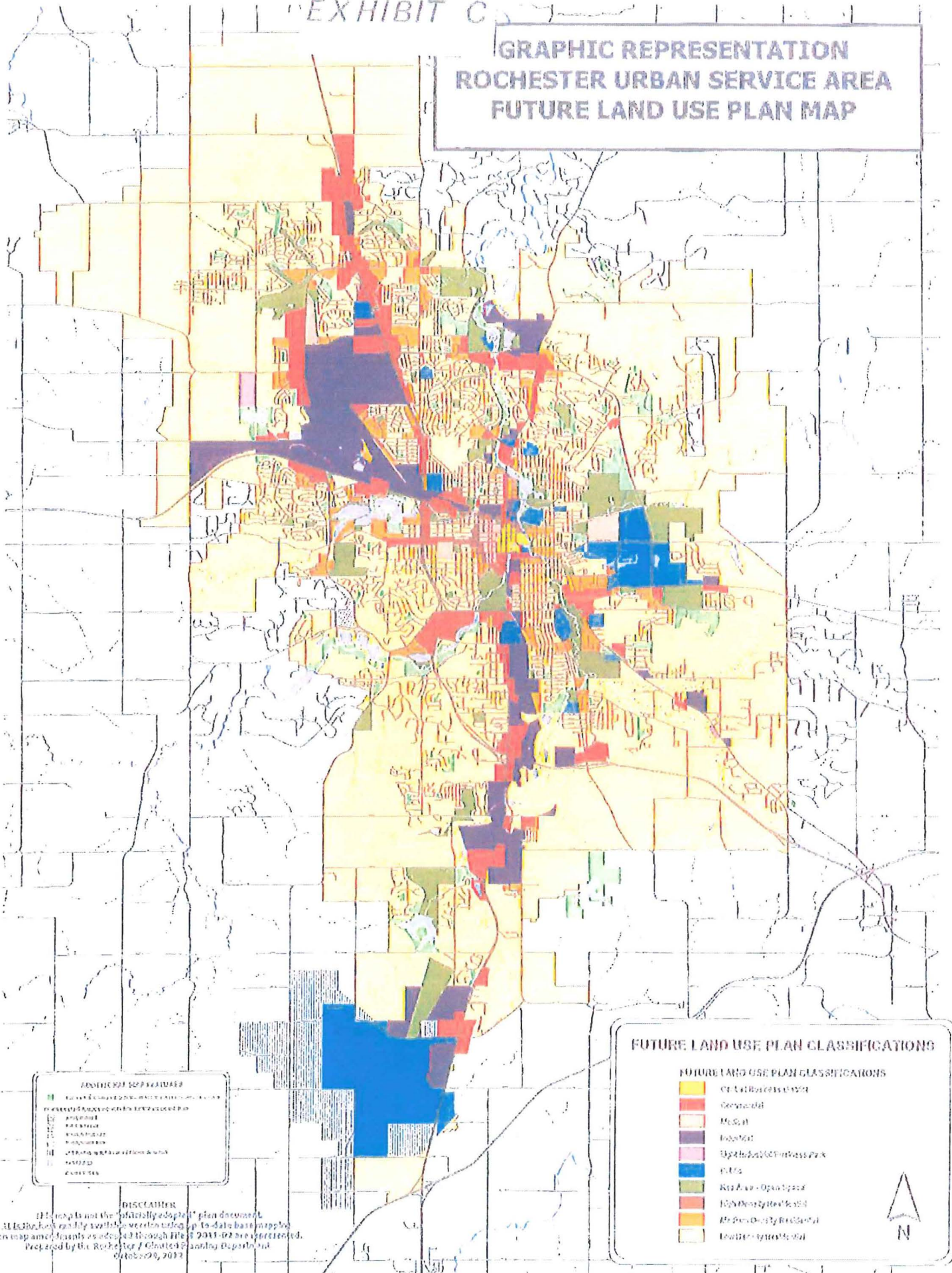


EXHIBIT C

GRAPHIC REPRESENTATION
ROCHESTER URBAN SERVICE AREA
FUTURE LAND USE PLAN MAP



DISCLAIMER
This map is not the "officially adopted" plan document.
All data is based on the most current data available.
The map is for informational purposes only and should not be used for legal or financial decisions.
Prepared by the Rochester Planning Department
October 20, 2013

FUTURE LAND USE PLAN CLASSIFICATIONS

FUTURE LAND USE PLAN CLASSIFICATIONS

- Central Business District
- Commercial
- Medium Density Residential
- Industrial
- Open Space / Recreation
- Office
- Residential - Single-Family
- Residential - Medium Density
- Residential - High Density
- Transportation

