

JOINT RESOLUTION FOR DESIGNATION OF CERTAIN LAND AND ORDERLY ANNEXATION AGREEMENT

IN THE MATTER OF THE ORDERLY ANNEXATION BETWEEN THE CITY OF ROCHESTER AND CASCADE TOWNSHIP PURSUANT TO MINNESOTA STATUTES § 414.0325

WHEREAS, Minn. Stat. § 414.0325 authorizes townships and municipalities to designate an area as in need of orderly annexation; and,

WHEREAS, on September 2, 2023 a Notice of Intent to include property in an orderly annexation area was published pursuant to Minnesota Statutes § 414.0325 Subd. 1b; and

WHEREAS, the City of Rochester (hereinafter City) and Cascade Township (hereinafter 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 properties 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 shall be provided in prioritized phases considering the need for annexation 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 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.; and,

NOW THEREFORE, BE IT RESOLVED jointly by the City Council of the City of Rochester and the Township Board of Cascade 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) the 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.
 - ii) the City determines by resolution that land, right-of-way or easements are needed for a public works improvement project designed to provide public infrastructure. Land annexed for public improvement, under this provision, 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) 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.
- 3) The Township may file objections with the Chief Administrative Law Judge concerning the City's annexation of lands within the Annexation Area found to violate the terms of this Agreement. If the Chief Administrative Law Judge determines 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 21 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) Upon annexation, one year worth of property taxes shall be paid from the City to the Township for the subject property. 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) The City will assume the responsibility as the road authority for, that segment of 19th St NW currently under Township authority as of the date of this agreement. The City's maintenance of 19th Street NW shall begin once The Common Council of The City Of Rochester has passed a resolution adopting this Agreement.
- 9) The Township shall remain the road authority of 15th St NW from 60th Avenue NW to a point 1,150-feet east of 60th Avenue NW located in the SW 1/4 of the SW 1/4 of Section 30 in Cascade Township until completion of the CSAH 44 interchange project. Upon completion of the interchange project, The City will assume reasonability as the road authority for said segment of 15th St NW. In the Interim the City will enter into a Maintenance Agreement for 15th St NW upon the Common Council of the City Of Rochester passing a resolution adopting this Agreement.
- 10) 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 (not otherwise addressed in this Agreement), 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.
- 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. The City will also consider the execution of an Owner Contract to provide for the Developer's construction of those improvements.
- 13) The City's zoning and subdivision authority does not apply within the Annexation Area until the time of annexation, except for 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.
- 14) This Agreement provides the exclusive procedure by which the unincorporated property identified in the Annexation Area may be annexed by the City.
- 15) The Township and City may, upon request from either party, meet to review the status of the annexation and development of the Annexation Area.
- 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, 2044 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 Chief Administrative Law Judge.
- 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 Chief Administrative Law Judge.
- 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, Community Development Director, 4001 W River Parkway NW, Rochester, MN 55901; and to the Cascade Township Clerk, 2025 75th St NE, Rochester, MN 55906.
- 24)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.

- 25) 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.
- 26)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 DAY OF October, 2023.
ATTEST: Sully Hinds PRESIDENT OF SAID COMMON COUNCIL
APPROVED THIS 4th DAY OF October , 2023.
MAYOR OF SAID CITY

CHAIRMAN OF TOWN BOARD

ATTEST:

TOWN CLERK

Exhibit A

Annexation Area:

All of Section 29, Township 107, North Range 14 West, lying outside of the City of Rochester

AND

All of Section 30 and Section 31, Township 107, North Range 14 West, lying north of the centerline of Highway 14 West, and outside of the City of Rochester

AND

All of Section 19, Township 107, North Range 14 West, lying outside of the City of Rochester that is south of the centerline of Valleyhigh Rd NW (County Road #4) and east of the centerline of 60th Ave NW (County Road #44)

Annexation Area Parcels:

741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 741931031066, 743023053865, 743023054409, 743023054410, 743033056216, 743033056217, 743122056218, 743122056219, 743033058096, 743033058097, 743033058098, 743033058100, 743033058101, 741942071507, 743033073600, 743033073601, 741934073606, 741931073607, 741942073608, 741942073609, 741942073610, 742932075728, 742942075732, 743013075738, 743031076190, 743031076192, 742931085451, 742931085452, 742931085453, 983000802548,

Joint Resolution for Designation of Certain Land and Orderly Annexation Agreement

The City of Rochester, Minnesota

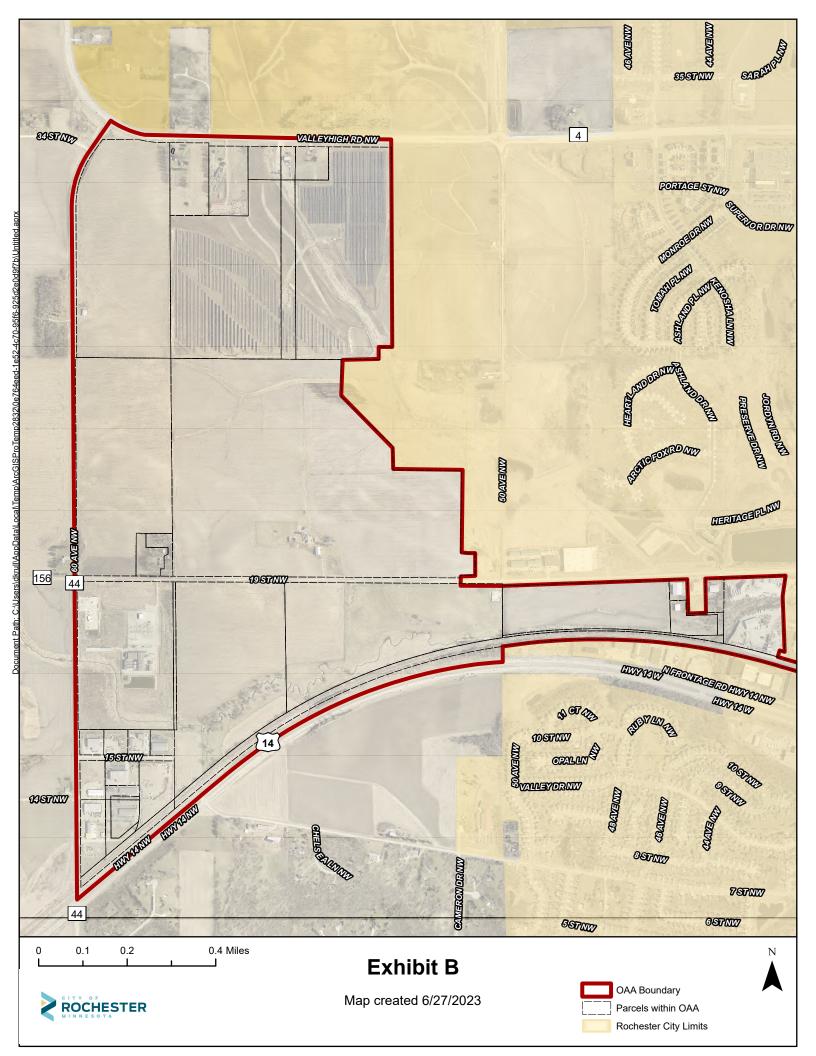
Kim Norton, Mayor

Attest

Kelly K. Geistler, City Clerk

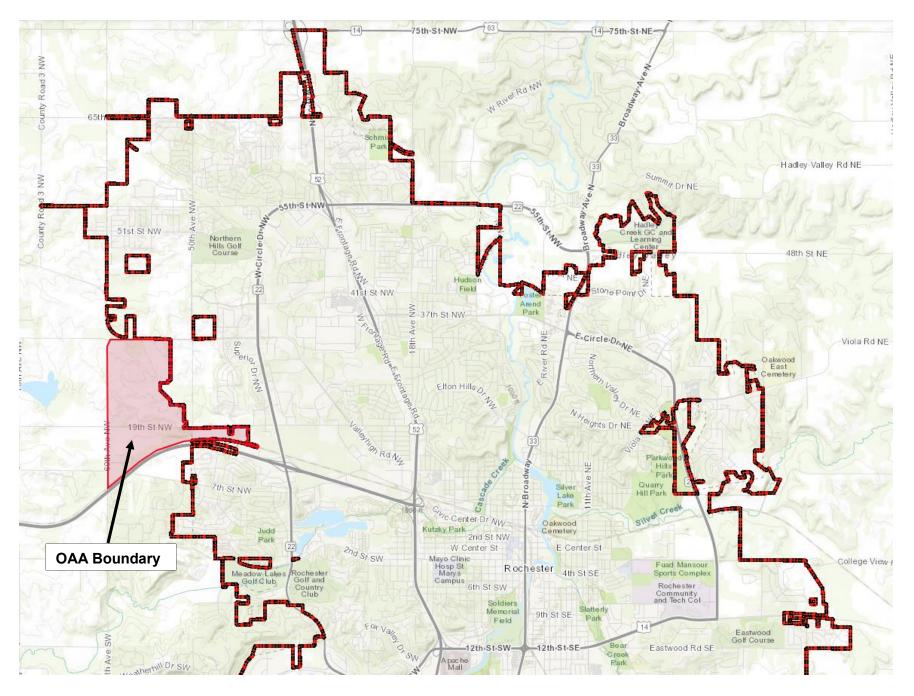
Approved as to Form & Execution

Michael Spindler-Krage, City Attorney



Rochester/Cascade Township OAA





CASCADE TOWNSHIP And CITY OF ROCHESTER ROUTINE MAINTENANCE AGREEMENT

This Agreement is between Cascade Township, Minnesota ("Township") and City of Rochester, Minnesota ("City").

Recital

1. As stipulated by the November 13, 2023 Joint Resolution Orderly Annexation Agreement, both parties wish to enter into an agreement that will provide routine maintenance performed by the City on 15th St NW from 60th Avenue NW to a point 1,150-feet east of 60th Avenue NW located in the SW 1/4 of the SW 1/4 of Section 30 in Cascade Township which is located outside of City limits upon such terms and conditions hereafter set forth.

Agreement

- 1.1. Term of Agreement; Survival of Terms;
- 1.2. Effective date. This Agreement will be effective on November 13, 2023.
- **1.3.** Expiration date. This Agreement will remain in effect until the completion of the County State Aid Highway (CSAH) 44 interchange project at which time the City will assume the full responsibility as the road authority.
- **1.4.** Survival of terms. All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 5. Liability; Worker Compensation Claims; Insurance; 7. Government Data Practices; 8. Governing Law; Jurisdiction; Venue; and 10. Force Majeure.
- **1.5.** *Location.* The City will perform routine maintenance on 15th St NW from 60th Avenue NW to a point 1,150-feet east of 60th Avenue NW located in the SW 1/4 of the SW 1/4 of Section 30 in Cascade Township.

2. Agreement Between the Parties

- 2.1. City Maintenance Responsibilities. The City will perform the following routine maintenance duties consistent with standards the City utilizes on other similar roadways. The work required is intended to keep the traveled roadway safe for public travel. Work needed in excess of that intended level is covered under Section 2.4. All materials used in the performance of said routine maintenance must comply with the State's current "Standard Specifications for Construction".
 - i. Keep the traveled roadway free and clear of ice, snow, litter, debris, and any other foreign matter of any nature.
 - ii. Sand, salt or chemically treat the traveled roadway as necessary to provide for safe public travel.
 - iii. Dispose of all snow, litter, debris and any other foreign matter collected upon, along or adjacent to the township road proper and within the township right-of-way limits according to all applicable laws, ordinances, and regulations.
 - iv. Notify the Township for any required signing repairs. The Township is responsible for the necessary repair.
 - v. Furnish all labor, materials, tools, equipment and any other necessary items to perform the routine maintenance duties covered under this agreement.
- **2.2.** Township Maintenance Responsibilities. The township will perform the following routine maintenance duties consistent with standards the Township utilizes on other similar roadways. The work required is

intended to maintain the existing facilities to a condition which is similar to that as the facilities existed upon the commencement of the Agreement. Work needed in excess of that intended level is covered under Section 2.4. All materials used in the performance of said routine maintenance must comply with the State's current "Standard Specifications for Construction".

- i. Maintain the township road to keep it smooth and in good repair for the passage of traffic and free from all obstructions and impediments to traffic. This includes all necessary preventative maintenance to preserve the roadbed in its present condition, such as proper and timely crack sealing of the surface, shoulder repair, restoration of utility openings, and all necessary patching of the roadbed.
- ii. Maintain the roadside vegetation, landscaping and trees in a neat and orderly fashion by mowing, trimming/removing trees as deemed necessary by Township staff, and providing for noxious weed control according to Minnesota Statutes § 160.23.
- iii. Maintain the roadway drainage system by addressing relatively minor erosion issues and keeping culverts and ditches clear from sediment buildup. A cooperative effort shall occur between the city and Township on major issues.
- iv. Repair, replace, or add any required signing.
- v. Furnish all labor, materials, tools, equipment and any other necessary items to perform the routine maintenance duties covered under this agreement.
- **2.3.** *Failure to Adequately Maintain.* If either party believes the other party has failed to perform any of the routine maintenance according to the terms of this Agreement, the alleging party shall notify the Authorized Representative of the activity in failure and supporting evidence for the allegation. The parties shall attempt to resolve the allegation through negotiations by the Authorized Representatives. If the matter is not successfully resolved, the parties agree to attempt to resolve the allegation in good faith through negotiations between assigned Administrator or elected official representatives.
- **2.4.** Extraordinary Maintenance. The City is not required to perform any extraordinary maintenance, construction or reconstruction under this Agreement. If the City is willing to perform extraordinary maintenance, and the Township Board approves such performance, the parties to this Agreement must enter into a separate agreement therefore. No expenses may be incurred on the extraordinary maintenance prior to the full execution of such an agreement.
- **2.5.** *Inspection of Performed Maintenance.* Both parties are authorized to request a joint inspection of the Township road to determine if the routine maintenance is being performed according to the terms of this agreement. The request shall be made to the Authorized Representative.

3. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

3.1. The Township's Authorized Representative will be:

Name/Title: Pat McGowan, Road Maintenance Supervisor (or successor)

Address: 2025 75th Street NE, Rochester, MN 55906

Telephone: 507-250-6081

E-Mail: pdmcgowan@gmail.com

3.2. The City's Authorized Representative will be:

Name/Title: Wendy Turri, Public Works Director (or successor)

Address: 4001 West River Pkwy NW STE 100, Rochester, MN 55901

Telephone: 507-328-2653

E-Mail: wturri@rochestermn.gov

4. Assignment; Amendments; Waiver; Contract Complete

- **4.1.** Assignment. Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- **4.2.** Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- **4.3.** Waiver. If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- **4.4.** Contract Complete. This Agreement contains all prior negotiations and agreements, with respect to routine maintenance, between the Township and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

5. Liability; Worker Compensation Claims; Insurance

- 5.1. Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City and the Township.
- **5.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

6. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

7. Government Data Practices

The City and Township must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City or the Township under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City or the Township.

8. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Olmsted County, Minnesota.

9. Termination

By Mutual Agreement. This Agreement may be terminated by mutual agreement of the parties.

10. Force Majeure

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

CITY OF ROCHESTER

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

By:

Mayor, City of Rochester

Attest:

City Clerk

Date:

November 13, 2023

CASCADE TOWNSHIP

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable resolutions or ordinances

By:

Mike Black, Chairman, Township Board

Attest:

Sara Rudquist, Township Clerk

Date:

9/11/2023

SARA RUDQUIST
Clerk, Cascade Twnshp., Olmsted Co., MN
Notarial Officer (ex-officio notary public)
My term is Indeterminate

INCLUDE COPY OF RESOULUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

RESOLUTION

Approving the Routine Maintenance Agreement By and Between the City of Rochester and Cascade Township and Authorizing its Execution.

WHEREAS, Minn Stat. 414.0325 authorizes townships and municipalities to designate an area as in need of orderly annexation; and

WHEREAS, the City of Rochester (City) and Cascade Township (Township) entered into a Joint Resolution Orderly Annexation Agreement (Agreement) on October 4, 2023; and

WHEREAS, Section 9 of the Agreement stipulates the parties enter into a maintenance agreement for 15th St NW from 60th Ave NW to a point 1,150 feet east of 60th Ave NW located in the SW ¼ of the SW ¼ of Section 30 in Cascade Township until completion of the County State-Aid Highway (CSAH) 44 interchange project.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Rochester, MN, that the City hereby adopts and will begin implementation of the approved Routine Maintenance Agreement by and between the City and Cascade Township (see Attachment A – Cascade Township Town Board Resolution for corresponding approval).

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS 2nd DAY OF October, 2023.
ATTEST: Selly Service PRESIDENT OF SAID COMMON COUNCIL
APPROVED THIS 4th DAY OF October , 2023.
MAYOR OF SAID CITY

ATTACHMENT A

CASCADE TOWNSHIP

RESOLUTION

APPROVING THE ROUTINE MAINTENANCE AGREEMENT BY AND BETWEEN THE CITY OF ROCHESTER AND CASCADE TOWNSHIP AND AUTHORIZING ITS EXECUTION.

WHEREAS, Minn. Stat. § 414.0325 authorizes townships and municipalities to designate an area as in need of orderly annexation; and,
WHEREAS, the City of Rochester (hereinafter City) and Cascade Township (hereinafter Township) entered into a Joint Resolution Orderly Annexation Agreement on, 2023.
WHEREAS, Section 9 of the Joint Resolution Orderly Annexation Agreement stipulates the parties to enter into a maintenance agreement for 15th St NW from 60th Avenue NW to a point 1,150-feet east of 60th Avenue NW located in the SW 1/4 of the SW 1/4 of Section 30 in Cascade Township until completion of the CSAH 44 interchange project.
NOW, THEREFORE, BE IT RESOLVED, by the Town Board of Cascade Township that Cascade Township hereby adopts and will begin implementation of the approved Routine Maintenance Agreement by and between Cascade Township and City of Rochester.
PASSED AND ADOPTED BY THE TOWN BOARD OF CASCADE TOWNSHIP, MINNESOTA, THIS 1 DAY OF September, 2023. MIKE BLACK CHAIRMAN OF TOWN BOARD
ATTEST: SARA RUDQUIST, CLERK/TREASURER SARA RUDQUIST, CLERK/TREASURER SARA RUDQUIST, CLERK/TREASURER SARA RUDQUIST, CLERK/TREASURER
APPROVED THIS <u>II</u> DAY OF <u>September</u> , 2023.

(Seal of the Cascade Township)

