

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Douglas Krueger	Ex-Officio Member
Harley Boettcher	Ex-Officio Member

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IN THE MATTER OF THE JOINT RESOLUTION )	<u>AMENDED</u>
BETWEEN THE CITY OF ROCHESTER AND THE )	<u>FINDINGS OF FACT</u>
TOWN OF CASCADE FOR THE ORDERLY )	<u>CONCLUSIONS OF LAW</u>
ANNEXATION OF CERTAIN LAND TO THE )	<u>AND ORDER</u>
CITY OF ROCHESTER )	

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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on December 19, 1984, at Rochester, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Chairman Robert J. Ferderer, Vice Chairman Kenneth F. Sette, Commissioner Richard A. Sand, and County Commissioners Douglas Krueger and Harley Boettcher, Ex-Officio Members of the Board. The City of Rochester appeared by and through Frederick Suhler, Jr., City Attorney, and the Town of Cascade appeared by and through Stan Hunter, Town Board Chairman. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. A joint resolution for orderly annexation was adopted by the City of Rochester and the Town of Cascade and duly accepted by the Minnesota Municipal Board.

2. A resolution was filed by one of the signatories to the joint resolution, the City of Rochester, on October 18, 1984 requesting the annexation of certain property within the orderly annexation area. The resolution contained all of the information required by statute including a description of the property subject to annexation, which is as follows:

PARCEL A.

All of the right-of-way not otherwise annexed to the City of Rochester of Trunk Highway 52, whether owned in fee or held by trunk highway easement, contained in the East Half of Section 16, the Northeast Quarter of Section 21, and the Northwest Quarter of Section 22, Township 107 North Range 14 West.

PARCEL B.

Lots 1, 2, 3, 4, 5, 6, and 7, Tongen's First Subdivision, Olmsted County, Minnesota.

PARCEL C.

All of Tongen's Second Subdivision, Olmsted County, Minnesota.

PARCEL D.

All of Cavilina Subdivision, Olmsted County, Minnesota.

PARCEL E.

That part of the North Half of the Northeast One-Quarter of Section 21, Township 107 North, Range 14 West, lying West of T.H. Number 52 North, described as follows:

Beginning at the Northwest corner of said Northeast one-quarter of Section 21; thence on an assumed bearing of East along the North

line of said Northeast one-quarter of Section 21, a distance of 2153.56 feet to the Westerly right-of-way line of T.H. Number 52 North; thence S-21°23'30"-E along said right-of-way line a distance of 195.08 feet; thence continuing along said right-of-way line S-14°22'00"-E a distance of 1151.68 feet; thence S-80°33'00"-W a distance of 180.98 feet; thence N-89°51'40"-W a distance of 2343.48 feet to the West line of said Northeast one-quarter of Section 21; thence N-00°29'30"-E along said West line a distance of 1321.46 feet to the point of beginning, containing 71.44 acres.

PARCEL F.

The South One-half of the North One-half of the Northwest Quarter of Section 21, Township 107 North, Range 14 West.

PARCEL G.

That part of the Northeast Quarter of the Northeast Quarter of Section 20, Township 107 North, Range 14 West described as follows:

Commencing 40 rods South of the Northeast corner of said Quarter-Quarter Section along the East line of said Quarter-Quarter Section for a place beginning, thence West parallel with the North line of the Northwest Quarter of Northeast Quarter to a point in the easterly right-of-way of the former Chicago and Northwestern Railroad Company property; thence Southeasterly along said east right-of-way line to the South line of the Northwest Quarter of the Northeast Quarter of said Section 20; thence East along said South line to the Southeast corner of said Northwest Quarter of the Northeast Quarter thence North along the East line of said Northeast Quarter to the point of beginning.

PARCEL H.

All that part of the Northeast Quarter of the Northeast Quarter of Section 20, Township 107 North, Range 14 West, bounded by the following described lines:

Commencing at the northeast corner of said Section 20; thence on an assumed bearing of

South 88° 13' 09" West, 257.93 feet along the north line of said Section 20; thence South 04° 45' 09" East, 557.42 feet along the former easterly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad); thence South 85° 14' 51" West, 100.00 feet to a point on the former westerly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad) and the point of beginning: Thence South 85° 14' 51" West, 25.00 feet; Thence South 04° 45' 09" East, 452.52 feet; Thence North 85° 14' 51" East, 25.00 feet to a point on the former westerly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad); Thence North 04° 45' 09" West, 452.52 feet along said former westerly right-of-way to the point of beginning.

PARCEL I.

That part of the North Half of the Southeast Quarter of Section 16, Township 107 North, Range 14 West, lying westerly of Trunk Highway No. 52, except that part described as follows:

Commencing at the southeast corner of the north half of the southeast quarter, said Section 16, running thence west along the south line of said north half, a distance of 1012.57 feet to a point in the west right-of-way line of Trunk Highway No. 52 for a place of beginning; thence west along said south line, a distance of 1609.39 feet to the southwest corner of said north half; thence deflect to the right 91° 17' along the west line of said southeast quarter, a distance of 585.55 feet; thence east parallel with said south line a distance of 1376.06 feet to the west right-of-way line of Trunk Highway No. 52; thence deflect to the right 68° 37' along said west right-of-way line a distance of 628.68 feet to the place of beginning; also except that part lying west of the following described line: From the southwest corner of said North Half, run north along the west line of said southeast quarter a distance of 585.55 feet; thence east parallel with the south line of said north half a distance of 84 feet for a place of beginning; thence run north to a

point on a line run parallel with and distant 33 feet south of the north line of said southeast quarter, distant 81.7 feet east of its intersection with the west line of said southeast quarter; thence run north on the last described course for 33 feet and there terminating; together with that part of the North Half of the Southeast Quarter of Section 16 lying west of the right-of-way line of T.H. 52 more particularly described as follows: From the Southeast Corner of the North half of said Section 16, run West along the South line thereof for 1012.57 feet to a point in the westerly right-of-way line of T.H. 52 for the place of beginning; thence West along said South line for 1609.39 feet to the Southwest corner of the North half of the Southeast quarter of said Section 16; thence deflect to the right  $91^{\circ} 17'$  along the west line of said Southeast quarter for 585.55 feet; thence East parallel with the South line of the North half of the Southeast quarter of Section 16 for 1376.06 feet to the westerly right-of-way line of said T.H. 52; thence run Southeasterly along said right-of-way line for 628.68 feet to the place of beginning, excepting therefrom the portion lying westerly of the following

Southwest

described line: From the ~~Southeast~~ corner of the North half of the Southeast quarter of said Section 16, run North along the West line thereof for 585.55 feet; thence East parallel with the South line of the North half of the Southeast Quarter of said Section 16 for 84 feet to the

place of beginning of the line to be described; thence deflect to the right of an angle of  $91^{\circ} 04'$  and run southerly to the South line of the North half of the Southeast Quarter of said Section 16 and there terminating.

PARCEL J.

That part of the North Half of the Southeast Quarter of Section 16, Township 107, Range 14, lying westerly of the following described line:

Commencing at the Southwest corner of said North Half of the Southeast Quarter; thence North along the West line of said Southeast Quarter, 585.55 feet; thence east parallel

with the south line of said North Half of the Southeast Quarter, 84 feet for a place of beginning; thence north to a point on a line parallel with and distance 33 feet south of the north line of said Southeast Quarter, distant 81.7 feet east of its intersection with the West line of said Southeast Quarter; thence North 33 feet on the last described course and there terminating.

PARCEL K.

Township 107 North, Range 14 West, Olmsted County, Minnesota  
lying 50 feet on each side of the following described line;

Commencing at the northeast corner of Section 21, Township 107, Range 14; thence southerly 178 degrees 32 minutes 37 seconds Azimuth from North (Azimuths are based on Minnesota State Plane Coordinate System, South Zone) along the east line of said Section 21 for a distance of 21.96 feet; thence westerly 269 degrees 12 minutes 24 seconds Azimuth for a distance of 620.00 feet; thence westerly 268 degrees 29 minutes 26 seconds Azimuth for a distance of 560.40 feet; thence westerly 269 degrees 12 minutes 24 seconds Azimuth for a distance of 470.00 feet to a point in the north line of the Northeast Quarter of said Section 21; thence westerly 268 degrees 12 minutes 04 seconds Azimuth along said north line a distance of 967.72 feet to the northwest corner of the Northeast Quarter of said

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Section 21; thence westerly ~~288~~ degrees 12 minutes 23 seconds Azimuth along the north line of the Northwest Quarter of said Section 21 for a distance of 1618.87 feet to the beginning of a tangential curve, concave southerly, central angle of 21 degrees 22

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minutes ~~12~~ seconds, radius of 1637.02 feet; thence westerly along said curve for a distance of 610.58 feet, thence southwesterly 246 degrees 50 minutes 10 seconds Azimuth for a distance of 779.97 feet to a point in the westerly line of the Chicago and Northwestern Transportation Company right-of-way for a point of beginning of the centerline to be described; thence continuing southwesterly along the last described course 75 feet to the

beginning of a tangential curve, concave northerly, central angle of 21 degrees 50 minutes 07 seconds, radius of 1637.02 feet; thence along the last described curve for a distance of 623.86 feet; thence westerly 268 degrees 40 minutes 17 seconds Azimuth for a distance of 334.24 feet and there terminating.

3. Due, timely and adequate legal notice of the hearing was published, served, and filed.

4. The area subject to annexation is unincorporated, within the orderly annexation agreement area, approximately 208.44 acres in size, and abuts the City of Rochester for approximately 91% of its perimeter. The City of Rochester is approximately 21.85 square miles in size.

5. The Town of Cascade has a total area of approximately 23.67 square miles.

6. There are no public waters located on the area proposed for annexation. An intermittent stream called Kings Run is located about 300 feet west of the northwest corner of the area proposed for annexation. The terrain of the undeveloped land in the annexation area is rolling.

7. In 1970 the City of Rochester had a population of 53,766, its population in 1980 was 57,890, and in 1982 its population was 59,307.

8. The Town of Cascade had a population of 2,442 in 1970, a population of 2,384 in 1980, and a population of 2,491 in 1982.

9. The area proposed for annexation is estimated to have an 1984 population of 55 people.

10. The City of Rochester has approximately 6,400 acres in

residential use, approximately 2,112 acres in institutional and park use, approximately 712 acres in commercial use, approximately 1,206 acres in industrial use, and approximately 1,247 acres in agricultural use and vacant land.

In the City of Rochester, there remains land planned for approximately 700 acres of residential use, approximately 258 acres for commercial use, and approximately 250 acres for industrial use.

11. In Cascade Township, land is zoned as follows: approximately 1,536 acres for residential use, approximately 112 acres for commercial use, approximately 346 acres for industrial use, and approximately 12,560 acres for agricultural use.

12. The area proposed for annexation presently has 127.72 acres of private land, 37.43 acres of public land, and 43.29 acres of road right-of-way. Of the land described as private, approximately 8 acres of that land is platted into 16 lots of which 15 are developed for single-family homes.

There are no plans to change the use of the 38 acres of land owned by the Minnesota Department of Transportation, Rochester Office. The majority of the undeveloped land is owned by IBM and planned for future industrial expansion. The 100 foot wide strip on the Alton Shefelbine farm, owned by the city is planned for use in construction of 41st Street Northwest, and it is the only portion of the annexation area located west of the right-of-way of the former Chicago and Northwestern Railroad company property. The remaining annexation area is presently the right-of-way for T.H. 52 and it would remain as is presently used.



13. The City of Rochester has issued 1,138 building permits in 1980, 990 in 1981, 1,191 in 1982, 1,707 in 1983, and 1,667 through November, 1984.

14. The Town of Cascade has issued 19 building permits in 1980, 27 in 1981, 29 in 1982, 52 in 1983, and 38 through November, 1984.

15. The City of Rochester has a zoning ordinance, subdivision regulations, shoreland and floodplain regulations, an official mapping program, the Uniform Building Code, the Minnesota Plumbing Code, the NFPA Fire Code, and capital improvement and budget program.

16. Olmsted County has a zoning regulation, subdivision, shoreland and floodplain regulations, a building code, the Minnesota Plumbing Code, sanitation ordinances, Human Services Programs, and the capital improvement and budget program.

17. Cascade Township has no independent land use planning document.

18. The 1978 General Land Use Plan for the Olmsted County area adopted by Olmsted County designates the area proposed for annexation in the "Potential Urban Service Area" of the City of Rochester. The future land use plan map designates the area proposed for annexation as industrial, residential, and public use.

19. The Tongens and Cavalima Subdivisions are presently zoned R-1 (Low Density Residential) under the Olmsted County Zoning Ordinance. The residential lots are nonconforming since they are under two acres in area, which is the minimum requirement for the ordinance. The Minnesota Department of Transportation property is zoned I (Industrial). The west 40 acres owned by IBM is also zoned

I (Industrial). The 71.44 acres along T.H. 52 also owned by IBM is presently zoned A-4 (Agricultural-Urban Expansion District), as is the right-of-way through the Shefelbine property and the other road right-of-ways.

20. If annexed, all lands will automatically be zoned R-1 (Single Family Residential). Any zoning changes would be rezoning to M-1 or M-2 (Manufacturing Districts) those properties planned for future industrial use.

21. This annexation is consistent with the local comprehensive plans.

22. The City of Rochester provides its residents with water, sanitary sewer, waste water treatment, storm sewer, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities and library services.

23. The city is willing to provide the area proposed for annexation with all of the services it presently provides residents of the City of Rochester.

The extension of water to serve the Tongen and Cavalima area would be by extensions of the watermain located at 31st Avenue and 48th Street or from the watermain along the west side of T.H. 52 south of 51st Street Northwest. Extension of sanitary sewer to service the residential subdivisions would be off of the northwest trunk sewer.

24. Cascade Township provides the area proposed for annexation with fire protection and street improvements and maintenance.

25. The City of Rochester has 196.24 miles of improved roads as follows: 12.3 miles of Trunk Highway, 8.82 miles of County State Aid Highway, 2.02 miles of County-Municipal State Aid Highway, and 173.1 miles of local streets.

26. Cascade Township has 71.36 miles of improved roads as follows: 6.5 miles of Trunk Highway, 32.21 miles of County Roads, and 32.65 miles of Town Roads.

27. In the area proposed for annexation there are presently three town roads, 51st and 48th Streets and Tongen Avenue. The city has not maintained these streets but by mutual agreement does plow the streets. That portion of T.H. 52 right-of-way located in the area proposed for annexation is maintained by the state and will continue to be so.

28. The city plans to construct a ramp with T.H. 52 and 41st Street Northwest as well as the roadway of 41st Street Northwest from the highway westerly to 41st Avenue Northwest. 41st Street Northwest will connect T.H. 52 to the proposed West Circle Drive and is classified as a "collector" street. The city plans to designate 41st Street Northwest as a state-aid street, which requires the roadway to be entirely within the city limits to qualify for state-aid funds. Presently the eastern portion and the far west end of the proposed street are out of the city limits. The proposed improvement is to assist in traffic access to the IBM plant located south of the area proposed for annexation. There is a concern that without such traffic access improvement, the plant's ability to expand will be reduced.

29. In 1984 the assessed valuation of the City of Rochester is \$329,296,364.

30. In 1984 the assessed valuation of the Town of Cascade is \$14,051,664.

31. The assessed valuation of the area proposed for annexation in 1984 is \$218,380.

32. The mill rate for Olmsted County in 1984 is 26.194 for the City of Rochester and 27.833 for the Town of Cascade.

33. School District #535 has a 1984 mill levy of 63.924.

34. Cascade Township mill levy in 1984 is 7.972. Cascade Township has a bonded indebtedness of \$0 as of 12-31-83.

35. The City of Rochester mill levy in 1984 is 28.739. The bonded indebtedness for the City of Rochester is \$33,210,000.

36. The fire insurance rating for the City of Rochester is 3. The fire insurance rating for the Town of Cascade is 9.

37. The proposed annexation, if completed, will not impact on School District #535, as all of the City of Rochester and the annexation area are within the same school district.

38. The town does not have the ability to provide public sewer and water to the area proposed for annexation.

39. The City of Rochester's ability to provide the area proposed for annexation with public sanitary sewage service will help to protect the quality of the groundwater in the area from possible contamination from septic tank effluent.

40. The City of Rochester is the only municipality adjacent to the area proposed for annexation.

41. The annexation is consistent with the joint resolution for orderly annexation between the Town of Cascade and the City of Rochester.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. The area subject to annexation is now or is about to become urban or suburban in nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.

3. The existing township form of government is not adequate to protect the public health, safety, and welfare of the area proposed for annexation.

4. The annexation would be in the best interests of the area proposed for annexation.

5. The annexation is consistent with the terms of the joint resolution for orderly annexation.

6. Three years will be required to effectively provide full municipal services to the annexed area or to comply with terms and conditions of the orderly annexation agreement as it relates to the mill levy step up.

7. An order should be issued by the Minnesota Municipal Board annexing the area described herein.

O R D E R

1. IT IS HEREBY ORDERED: That the property described hereinafter be, and the same is hereby annexed to the City of

Rochester, Minnesota, the same as if it had been originally a part thereof:

PARCEL A.

All of the right-of-way not otherwise annexed to the City of Rochester of Trunk Highway 52, whether owned in fee or held by trunk highway easement, contained in the East Half of Section 16, the Northeast Quarter of Section 21, and the Northwest Quarter of Section 22, Township 107 North Range 14 West.

PARCEL B.

Lots 1, 2, 3, 4, 5, 6, and 7, Tongen's First Subdivision, Olmsted County, Minnesota.

PARCEL C.

All of Tongen's Second Subdivision, Olmsted County, Minnesota.

PARCEL D.

All of Cavilina Subdivision, Olmsted County, Minnesota.

PARCEL E.

That part of the North Half of the Northeast One-Quarter of Section 21, Township 107 North, Range 14 West, lying West of T.H. Number 52 North, described as follows:

Beginning at the Northwest corner of said Northeast one-quarter of Section 21; thence on an assumed bearing of East along the North line of said Northeast one-quarter of Section 21, a distance of 2153.56 feet to the Westerly right-of-way line of T.H. Number 52 North; thence S-21°23'30"-E along said right-of-way line a distance of 195.08 feet; thence continuing along said right-of-way line S-14°22'00"-E a distance of 1151.68 feet; thence S-80°33'00"-W a distance of 180.98 feet; thence N-89°51'40"-W a distance of 2343.48 feet to the West line of said Northeast one-quarter of Section 21; thence N-00°29'30"-E along said West line a distance of 1321.46 feet to the point of beginning, containing 71.44 acres.

PARCEL F.

The South One-half of the North One-half of the Northwest Quarter of Section 21, Township 107 North, Range 14 West.

PARCEL G.

That part of the Northeast Quarter of the Northeast Quarter of Section 20, Township 107 North, Range 14 West described as follows:

Commencing 40 rods South of the Northeast corner of said Quarter-Quarter Section along the East line of said Quarter-Quarter Section for a place beginning, thence West parallel with the North line of the Northwest Quarter of Northeast Quarter to a point in the easterly right-of-way of the former Chicago and Northwestern Railroad Company property; thence Southeasterly along said east right-of-way line to the South line of the Northwest Quarter of the Northeast Quarter of said Section 20; thence East along said South line to the Southeast corner of said Northwest Quarter of the Northeast Quarter thence North along the East line of said Northeast Quarter to the point of beginning; which is more particularly described as:

Commencing 40 rods South of the Northeast corner of said Quarter-Quarter Section along the East line of said Quarter-Quarter Section for a place beginning, thence West parallel with the North line of the Northeast Quarter of Northeast Quarter to a point in the easterly right-of-way of the former Chicago and Northwestern Railroad Company property; thence Southeasterly along said east right-of-way line to the South line of the Northeast Quarter of the Northeast Quarter of said Section 20; thence East along said South line to the Southeast corner of said Northeast Quarter of the Northeast Quarter thence North along the East line of said Northeast Quarter to the point of beginning.

PARCEL H.

All that part of the Northeast Quarter of the Northeast

Quarter of Section 20, Township 107 North, Range 14 West, bounded by the following described lines:

Commencing at the northeast corner of said Section 20; thence on an assumed bearing of South  $88^{\circ} 13' 09''$  West, 257.93 feet along the north line of said Section 20; thence South  $04^{\circ} 45' 09''$  East, 557.42 feet along the former easterly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad); thence South  $85^{\circ} 14' 51''$  West, 100.00 feet to a point on the former westerly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad) and the point of beginning: Thence South  $85^{\circ} 14' 51''$  West, 25.00 feet; Thence South  $04^{\circ} 45' 09''$  East, 452.52 feet; Thence North  $85^{\circ} 14' 51''$  East, 25.00 feet to a point on the former westerly right-of-way line of the Chicago and Northwestern Railroad (formerly the Wisconsin, Minnesota and Pacific Railroad); Thence North  $04^{\circ} 45' 09''$  West, 452.52 feet along said former westerly right-of-way to the point of beginning.

PARCEL I.

That part of the North Half of the Southeast Quarter of Section 16, Township 107 North, Range 14 West, lying westerly of Trunk Highway No. 52, except that part described as follows:

Commencing at the southeast corner of the north half of the southeast quarter, said Section 16, running thence west along the south line of said north half, a distance of 1012.57 feet to a point in the west right-of-way line of Trunk Highway No. 52 for a place of beginning; thence west along said south line, a distance of 1609.39 feet to the southwest corner of said north half; thence deflect to the right  $91^{\circ} 17'$  along the west line of said southeast quarter, a distance of 585.55 feet; thence east parallel with said south line a distance of 1376.06 feet to the west right-of-way line of Trunk Highway No. 52; thence deflect to the right  $68^{\circ} 37'$  along said west right-of-way line a distance of 628.68 feet to the place of beginning; also except that part lying west of the following described line: From the southwest corner of said North Half, run north along the west line of said southeast quarter a distance of 585.55 feet; thence east parallel with the south line



of said north half a distance of 84 feet for a place of beginning; thence run north to a point on a line run parallel with and distant 33 feet south of the north line of said southeast quarter, distant 81.7 feet east of its intersection with the west line of said southeast quarter; thence run north on the last described course for 33 feet and there terminating; together with that part of the North Half of the Southeast Quarter of Section 16 lying west of the right-of-way line of T.H. 52 more particularly described as follows: From the Southeast Corner of the North half of said Section 16, run West along the South line thereof for 1012.57 feet to a point in the westerly right-of-way line of T.H. 52 for the place of beginning; thence West along said South line for 1609.39 feet to the Southwest corner of the North half of the Southeast quarter of said Section 16; thence deflect to the right  $91^{\circ} 17'$  along the west line of said Southeast quarter for 585.55 feet; thence East parallel with the South line of the North half of the Southeast quarter of Section 16 for 1376.06 feet to the westerly right-of-way line of said T.H. 52; thence run Southeasterly along said right-of-way line for 628.68 feet to the place of beginning, excepting therefrom the portion lying westerly of the following

Southwest

described line: From the ~~Southeast~~ corner of the North half of the Southeast quarter of said Section 16, run North along the West line thereof for 585.55 feet; thence East parallel with the South line of the North half of the Southeast Quarter of said Section 16 for 84 feet to the

place of beginning of the line to be described; thence deflect to the right of an angle of  $91^{\circ} 04'$  and run southerly to the South line of the North half of the Southeast Quarter of said Section 16 and there terminating.

PARCEL J.

That part of the North Half of the Southeast Quarter of Section 16, Township 107, Range 14, lying westerly of the following described line:

Commencing at the Southwest corner of said North Half of the Southeast Quarter; thence North along the West line of said Southeast Quarter, 585.55 feet; thence east parallel

with the south line of said North Half of the Southeast Quarter, 84 feet for a place of beginning; thence north to a point on a line parallel with and distance 33 feet south of the north line of said Southeast Quarter, distant 81.7 feet east of its intersection with the West line of said Southeast Quarter; thence North 33 feet on the last described course and there terminating.

PARCEL K.

Township 107 North, Range 14 West, Olmsted County, Minnesota  
lying 50 feet on each side of the following described line;

Commencing at the northeast corner of Section 21, Township 107, Range 14; thence southerly 178 degrees 32 minutes 37 seconds Azimuth from North (Azimuths are based on Minnesota State Plane Coordinate System, South Zone) along the east line of said Section 21 for a distance of 21.96 feet; thence westerly 269 degrees 12 minutes 24 seconds Azimuth for a distance of 620.00 feet; thence westerly 268 degrees 29 minutes 26 seconds Azimuth for a distance of 560.40 feet; thence westerly 269 degrees 12 minutes 24 seconds Azimuth for a distance of 470.00 feet to a point in the north line of the Northeast Quarter of said Section 21; thence westerly 268 degrees 12 minutes 04 seconds Azimuth along said north line a distance of 967.72 feet to the northwest corner of the Northeast Quarter of said

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Section 21; thence westerly ~~288~~ degrees 12 minutes 23 seconds Azimuth along the north line of the Northwest Quarter of said Section 21 for a distance of 1618.87 feet to the beginning of a tangential curve, concave southerly, central angle of 21 degrees 22

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minutes ~~12~~ seconds, radius of 1637.02 feet; thence westerly along said curve for a distance of 610.58 feet, thence southwesterly 246 degrees 50 minutes 10 seconds Azimuth for a distance of 779.97 feet to a point in the westerly line of the Chicago and Northwestern Transportation Company right-of-way for a point of beginning of the centerline to be described; thence continuing southwesterly along the last described course 75 feet to the

beginning of a tangential curve, concave northerly, central angle of 21 degrees 50 minutes 07 seconds, radius of 1637.02 feet; thence along the last described curve for a distance of 623.86 feet; thence westerly 268 degrees 40 minutes 17 seconds Azimuth for a distance of 334.24 feet and there terminating.

2. IT IS FURTHER ORDERED: That the population of the City of Rochester is increased by 55 persons.

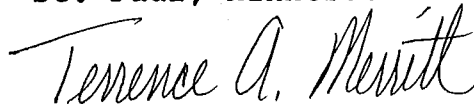
3. IT IS FURTHER ORDERED: That the population of the Town of Cascade is decreased by 55 persons.

4. IT IS FURTHER ORDERED: That the mill levy of the City of Rochester on the property herein ordered annexed shall be increased in substantially equal proportions over a period of three years to equality with the mill levy of the property already within the city.

5. IT IS FURTHER ORDERED: That the effective date of this order is February 27, 1985.

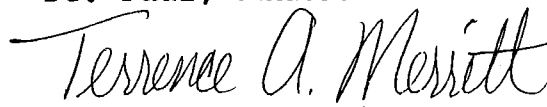
Dated this 27th day of February, 1985.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101

  
Terrence A. Merritt  
Executive Director

Amended Order Dated this  
13th day of November, 1985.

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
St. Paul, Minnesota 55101

  
Terrence A. Merritt  
Executive Director

M E M O R A N D U M

The board in reaching its determination in this matter was faced with the City of Rochester's policy change of how it deals with proceedings under the orderly annexation agreement. To date, the City of Rochester has focused upon seeking the annexation of parcels whose owners desired annexation. This proceeding diverged sharply from that in the areas of the Tongen and Cavalima Subdivisions.

The board begins its memorandum on this matter noting the change in ground rules. The statute itself sets forth the criterion and factors which the board must consider. Based on the evidence before it, the criterion and factors support the annexation. Under the previous ground rules between the city and the town, the two subdivisions would not have been presented for the board to consider and the board would have had to initiate on its own motion the expansion of the area under consideration to have included these properties.

Given the configuration of the area proposed for annexation, for the board to exclude the Tongen and Cavalima Subdivisions would have required it to have deleted land which met the statutory criterion and which, if the remainder of the annexation area was annexed, would be separated from other township property by something near, if not in excess of, a half mile in each direction. The creation of such an island was not warranted given the evidence in this matter.

In reviewing the loss of revenue to the town, the board notes in more than a mere passing glance, that the Town of Cascade continues to lose tax revenue property to the City of Rochester. Should annexation requests continue, the board anticipates that the city will develop actual figures as to the projected impact of such property and tax losses to the town. The board will not be a party to the slow destruction of the town. The burden will be on the city to show that future annexations have not crossed the financial threshold of crippling the town.

The board notes that the city owned land purchased from the Shefelbine property is included because it is part of the 41st Street extension. The board is concerned with the irregularity of the property, since on the one hand the city is attempting to clean up and straighten its boundaries, while on the other it is creating a rather irregular extension of its boundaries through the inclusion of that property, which is to be a part of 41st Street Northwest.

The board notes that the area under consideration does not include that portion of land which contains a power plant for the IBM complex. According to testimony, the city did not include that in its annexation request, so as to leave the \$7,000 to \$8,000 generated for local taxes for the town. It is the board's hope that the city and the town can begin again to work together so as to insure the continued viability of each. The board is concerned that the communities have continued to take philosophical positions that may or may not be supported by the weight of objective fact. The board is more than mildly concerned that such entrenching of

positions could result in a deterioration if not the total destruction, of cooperation between the two communities. Such an event would have disastrous consequences not only for the town and the city but more significantly for the residents of the two communities.

In approving the annexation preliminarily, and finally, the board does not wish anyone to draw the inference that it perceives the city as deserving of special treatment. Rather, the board is mindful that funds available for highway construction have been designated for the 41st Street project. To needlessly delay its decision when the testimony was in general agreement that the project should go forward, would unnecessarily deprive the community of state funds. Any interpretation of the board's action as a blank check for avoiding the issues raised in this memorandum in the future is a sadly mistaken perception.

The board is not pleased that the parties have been unable to meet and at least discuss the matters of mutual concern. The board hopes that the parties, which it has admonished many times before, will take this opportunity to begin again to work as members of one community rather than as two separate entities competing for what have been labeled mutually exclusive goals. 2-27-85 TAM