

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

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| IN THE MATTER OF THE ORDERLY ANNEXATION) | |
| AGREEMENT BETWEEN THE CITY OF ROCHESTER) | <u>FINDINGS OF FACT</u> |
| AND MARION TOWNSHIP PURSUANT TO) | <u>CONCLUSIONS OF LAW</u> |
| MINNESOTA STATUTES 414) | <u>AND ORDER</u> |

The city resolution for orderly annexation submitted by the City of Rochester was reviewed for conformity with applicable law. The undersigned Assistant Chief Administrative Law Judge, acting under a delegation from the Chief Administrative Law Judge, 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 Marion Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustments.
2. A resolution adopted and submitted by the City of Rochester, requests annexation of part of the designated area described as follows:

That part of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Beginning at the southwest corner of said Section 17; thence North 01 degree 16 minutes 39 seconds West, assumed bearing, along the west line thereof, 1891.52 feet to the south line of Lot 63, AUDITOR'S PLAT 'E'; thence North 88 degrees 42 minutes 42 seconds East, along the southerly line of said Lot 63, a distance of 156.90 feet to the southeast corner thereof; thence North 00 degrees 46 minutes 15 seconds West, along the easterly line of said Lot 63, a distance of 243.00 feet to the centerline of PINEWOOD ROAD SOUTHEAST; thence South 68 degrees 39 minutes 39 seconds East along said

centerline, 91.29 feet; thence North 01 degree 13 minutes 17 seconds West, along the easterly line of Lot 22 in said AUDITOR'S PLAT 'E' a distance of 359.85 feet to the northeast corner thereof; thence North 68 degrees 51 minutes 39 seconds West, along the northerly line of said Lot 22, a distance of 227.89 feet to the easterly right of way line of 30th Avenue SE; thence North 01 degree 16 minutes 39 seconds West, along said easterly right of way line, 94.70 feet; thence North 01 degree 34 minutes 23 seconds West, along said easterly right of way line, 1423.11 feet to the southerly line of OLMSTED COUNTY RIGHT OF WAY PLAT NO. 104 (the next six courses are along said southerly line); thence North 88 degrees 25 minutes 37 seconds East, 17.03 feet; thence North 01 degree 34 minutes 23 seconds West, 70.00 feet; thence northeasterly 244.95 feet along a tangential curve, concave to the southeast, radius of 165.00 feet and a central angle of 85 degrees 03 minutes 32 seconds thence South 72 degrees 25 minutes 50 seconds East, not tangent to said curve, 519.82 feet; thence South 75 degrees 00 minutes 28 seconds East, 321.23 feet; thence southeasterly 1111.46 feet along the southerly line of said PLAT NO. 104 and along the southerly right of way line of CSAH NO. 36 and along a nontangential curve, concave the northeast, radius of 17,235.73 feet, central angle of 03 degrees 41 minutes 39 seconds and the chord of said curve bears South 61 degrees 49 minutes 58 seconds East, 1111.27 feet to the southerly extension of the west line of CEDAR PARK FIRST SUBDIVISION; thence North 00 degrees 53 minutes 08 seconds West, along said extension line of along the west line of said CEDAR PARK FIRST SUBDIVISION, 1233.77 feet to the northwest corner thereof (the next three courses are along the northerly line of said CEDAR PARK FIRST SUBDIVISION); thence North 89 degrees 06 minutes 52 seconds East, 456.28 feet; thence North 00 degrees 53 minutes 08 seconds West, 267.53 feet; thence North 89 degrees 06 minutes 52 seconds East, 169.50 feet to the west line of the Northeast Quarter of said Section 17; thence North 02 degrees 21 minutes 18 seconds West, along said west line, 267.53 feet to the northwest corner of said Northeast Quarter; thence North 89 degrees 37 minutes 56 seconds East, along the north line thereof, 2651.63 feet to the northeast corner of said Section 17; thence South 01 degree 37 minutes 50 seconds East, along the east line thereof, 2641.70 feet to the southeast corner of said Northeast Quarter; thence South 01 degree 08 minutes 37 seconds East, along the east line of the Southeast Quarter of said Section 17, a distance of 2028 feet more or less to the southerly right of way line of CSAH No. 36; thence northwesterly along said southerly right of way line, 864 feet more or less to the north line of the South Half of the Southeast Quarter of said Section 17; thence South 89 degrees 22 minutes 19 seconds West along said north line, 2140 feet more or less to the west line of the Southeast Quarter of said Section 17; thence South 00 degrees 59 minutes 46 seconds East, along the west line thereof, 1322.10 feet to the southeast corner of the Southwest Quarter of said Section 17; thence South 89 degrees 24 minutes 09 seconds West, along the south line thereof, 2628.29 feet to the point of beginning.

ALSO:

The west 33.00 feet of the South Half of the Southeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota.

ALSO:

The west 33.00 feet of the Northwest Quarter of Section 16, Township 106 North, Range 13 West, Olmsted County, Minnesota.

LESS ALL of the Following Described Land Parcels:

Land annexed to the City of Rochester on May 13, 2004 (OA-661-1 Rochester, Resolution No. 571-03) described as follows:

That part of the North half of the Southeast Quarter of Section 17, Township 106, Range 13, Olmsted County, Minnesota, described as follows:

Commencing at a the southeast corner of said North Half of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 25 minutes 00 seconds West along south line of said North Half of the Southeast Quarter 359.04 feet to the centerline of C.S.A.H. #36 and the point of beginning; thence North 33 degrees 01 minutes 00 seconds West along said centerline 474.50 feet; thence South 56 degrees 59 minutes 00 seconds West 353.60 feet; thence South 26 degrees 17 minutes 00 seconds East 223.69 feet to the south line of said north Half of the Southeast Quarter; thence South 89 degrees 25 minutes 00 seconds East along said south line 456.02 feet to the point of beginning. The above described parcel contains 2.97 acres, is subject to a right of way easement for County Road #36 along the northeasterly line thereof, and is subject to any other easements of record.

ALSO LESS

Land annexed to the City of Rochester on March 18, 2004 (OA-661-2 Rochester, Resolution No. 041-04) described as follows:

A part of the South One Half of the Northeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota described as follows:

Commencing at the southeast corner of the Northeast Quarter of said Section 17; thence due West, assumed bearing, along the south line of said Northeast Quarter, 1050.00 feet; thence due North, 33.00 feet for a point of beginning; thence continue due North, 1288.38 feet to the north line of the South One Half of said Northeast Quarter: thence North 89°57'17" West along said north line, 1001.15 feet thence South 01°53'40" East, along a line being 610.50 feet east of, measured at right angles to, and parallel with the west line of said Northeast Quarter, 932.07 feet to the northerly right of way line of C.S.A.H. #36; thence Southeasterly 800.45 feet along said right of way line to a point 33.00 feet north of, measured at right angles to, the south line of said Northeast Quarter; thence due east, parallel with said south line, 254.35 feet to the point of beginning.

Containing 26.10 acres more or less.

ALSO LESS

Land annexed to the City of Rochester on May 13, 2004 (OA-661-3 Rochester, Resolution No. 121-04) described as follows:

That part of the North Half of the Southeast Quarter of Section 17, Township 106, Range 13 West, in Olmsted County, Minnesota, described as follows:

Commencing at the northwest corner of said Southeast Quarter and running thence due east along the north line thereof a distance of 1154.85 feet to the center of C.S.A.H. #36; thence deflect to the right along the center line of said highway on a 3 degree curve, delta angle 11 degrees 14 minutes, radius 1909.86 feet a distance of 374.75 feet, thence south 59 degrees 9 minutes west a distance of 154.1 feet, thence south 30 degrees 31 minutes east a distance of 82 feet, thence south 59 degrees 9 minutes west a distance of 72 feet, thence south 30 degrees 51 minutes east a distance of 166.2 feet; thence north 59 degrees 9 minutes east a distance of 288.1 feet to the centerline of said trunk highway, thence deflect to the right along the center line of said trunk highway on a 3 degree curve, radius of 1909.86 feet a distance of 236.1 feet, thence tangent to said curve bearing south 33 degrees 55 minutes east a distance of 403.4 feet, thence south 56 degrees 5 minutes west a distance of 353.6 feet, thence south 26 degrees 26 minutes east a distance of 218.15 feet to the point in the south line of the North Half of the Southeast Quarter, thence south 89 degrees 52 minutes west a distance of 1800.45 feet to the southwest corner thereof, thence north along the west line thereof a distance of 1321 feet to the place of beginning. Containing 46.94 acres, more or less.

Together with a perpetual easement for ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Beginning at the northwest corner of said Southwest Quarter of the Southeast Quarter; thence on as assumed bearing of North 89 degrees 50 minutes 5 seconds East 66.00 feet along the north line of said Southwest Quarter of the Southeast Quarter; thence South 23 degrees 16 minutes 32 seconds West 163.49 feet to a point on the west line of said Southwest Quarter of the Southeast Quarter; thence North 00 degrees 32 minutes 00 seconds West 150.00 feet along said west line to the point of beginning. Said easement shall include the right to construct and maintain a road.

EXCEPTING the following two tracts:

TRACT 1

That part of the Southeast Quarter of Section 17, Township 106, Range 13, described as follows: Beginning at the Northwest corner of said Southeast Quarter of Section 17; thence North 89 degrees 54 minutes 22 seconds East, along the North line of said Southeast Quarter (for purposes of this description bearing of said North line is assumed), a distance of 1154.34 feet to the Southwesterly right of way of C.S.A.H. #36; thence Southeasterly along said right of way, on a curve, concave Southwesterly (curve data: radius = 1909.86 feet; delta angle = 11 degrees 14 minutes 33 seconds; chord bearing a distance = South 54 degrees 25 minutes 41 seconds East 374.15 feet), an arc distance of 374.51 feet; thence South 59 degrees 03 minutes 22 seconds West, 154.10 feet; thence South 30 degrees 56 minutes 38 seconds East, 33.86 feet; thence South 89 degrees 54 minutes 22 seconds West, parallel with the North line of said Southeast Quarter, 1340.43 feet to the West line of said Southeast Quarter; thence North 0 degrees 36 minutes 42 seconds West, 326.26 feet to the point of beginning; said tract containing 10.0 acres, more or less.

TRACT 2

That part of the Southeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota, described as follows: Commencing at the Northwest corner of said Southeast Quarter of Section 17; thence North 89 degrees 54 minutes 22 seconds East, along the North line of said Southeast Quarter (for purposes of this description bearings are assumed and based on the North line being North 89° 54 minutes 22 seconds East), a distance of 1154.34 feet to the centerline of County State Aid Highway 36; thence southeasterly along said centerline, on a nontangential curve concave southwesterly (curve data: delta angle = 18 degrees 55 minutes 23 seconds radius = 1909.86 feet; chord bearing and distance = South 50 degrees 35 minutes 16 seconds East, 627.90 feet), an arc distance of 630.77 feet to the point of beginning; thence South 59 degrees 03 minutes 22 seconds West, 191.83 feet; thence South 30 degrees 56 minutes 38 seconds East, 100.00 feet; thence North 59 degrees 03 minutes 22 seconds East, 207.07 feet to the centerline of County State Aid Highway 36; thence northwesterly along said centerline, on a nontangential curve concave southwesterly (curve data: delta = 3 degrees 02 minutes 06 seconds; radius = 1909.86 feet; chord bearing distance = North 39 degrees 36 minutes 31 seconds West, 101.15 feet), an arc distance of 101.17 feet to the point of beginning; subject to right of way for County State Aid Highway 36 over the northeasterly side thereof; said tract contains 0.46 acres more or less

including said right of way and 0.24 acres more or less excluding said right of way.

Subject to the following described driveway easement: That part of the Southeast Quarter of Section 17, Township 106, Range 13, Olmsted County, Minnesota, described as follows: Commencing at the Northwest corner of said Southeast Quarter of Section 17; thence North 89 degrees 54 minutes 22 seconds East, along the North line of said Southeast Quarter (for purposes of this description bearing are assumed and based on said North line being North 89 degrees 54 minutes 22 seconds East), a distance of 1154.34 feet to the centerline of County State Aid Highway 36; thence southeasterly along said centerline on a nontangential curve concave southwesterly (curve data: delta angle = 21 degrees 57 minutes 29 seconds; radius = 1909.86 feet; chord bearing and distance = South 49 degrees 04 minutes 13 seconds East, 727.46 feet), an arc distance of 731.94 feet to the point of beginning; thence South 59 degrees 03 minutes 22 seconds West, 147.72 feet; thence South 30 degrees 56 minutes 38 seconds East, 66.00 feet; thence North 59 degrees 03 minutes 22 seconds' East, to the centerline of County, State Aid Highway 36; thence northwesterly along said centerline to the point of beginning; subject to the right of way for County State Aid Highway 36 over the northeasterly side thereof.

ALSO

Subject to the right the State of Minnesota in that part taken for right of way for Trunk Highway. Subject to any other easements, restrictions, and covenants of record.

Containing 39.54 acres more or less.

ALSO LESS

Land annexed to the City of Rochester on November 10, 2004 (OA-661-4 Rochester, Resolution No. 506-04) described as follows:

The North Half of the Northwest Quarter of the Northeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota. Containing 20.02 acres more or less.

ALSO LESS

Land annexed to the City of Rochester on December 9, 2004 (OA-622- Rochester, Resolution No. 574-04) described as follows:

Lot 58, Auditors Plat "E", Olmsted County, Minnesota

ALSO:

Lot 54, Auditors Plat "E", Olmsted County, Minnesota.

EXCEPTING the following two (2) parcels of real estate described as follows:

A:

Commencing at the northwest corner of said Lot 54 for a point of beginning, running thence South a distance of 195.82 feet, running thence South 67 degrees 50 minutes East a distance of 88 feet, running thence North 195.62 feet, running thence North 67 degrees 50 minutes West a distance of 88 feet to the place of beginning.

B:

Beginning at the southeast corner of said Lot 54, thence North 02 degrees 21 minutes 00 seconds West, assumed bearing, along the east line of said Lot 54 a distance of 190.16 feet; thence North 89 degrees 36 minutes 00 seconds West, 30.00 feet; thence South 02 degrees 21 minutes 00 seconds East, 190.16 feet to the south line of said Lot 54; thence South 89 degrees 36 minutes 00 second East along said south line 30.00 feet to the point of beginning.

Containing 10.01 acres more or less.

ALSO LESS

Land annexed to the City of Rochester on October 18, 2005 (OA-661-5 Rochester, Resolution No. 288-05) described as follows:

Lot 25, Auditor's Plat "E" and that part of Lot 26, described as follows: Commencing at the Northeast corner of Lot 25 thence southeasterly 100 feet, thence southwesterly 460.80 feet to the center line of Pinewood Road thence northwesterly along said center line 105.05 feet to the Southeast corner of Lot 25, thence north along the east line 428.70 feet to the place of beginning, Auditor's Plat "E", Olmsted County, Minnesota. Containing 2.02 acres more or less.

ALSO LESS

Land annexed to the City of Rochester on November 16, 2006 (OA-661-6 Rochester, Resolution No. 454-06) described as follows:

Lot 7, Vandals First Subdivision, Olmsted County, Minnesota.

ALSO LESS

Land annexed to the City of Rochester on December 15, 2006 (OA-661-7 Rochester, Resolution No. 567-06) described as follows:

Lot 64, Auditor's Plat "E" of the West Half of Section 17, Township 106 Range 13 West in Olmsted County, Minnesota,

Exception to the Following Four Parcels:

1. Commencing for a place of beginning at the Southwest Corner of Lot 62 of Said Auditor's Plat "E"; thence south along the West line of said Lot 64, 434 feet, thence East to the Southeast Lot 59 of Auditor's Plat "E"; thence North along the West Line of said Lot 59, 543.7 feet; thence West along the South Lines of Lots 60 and 61 of said Auditor's Plat "E", 286.45 feet to the East Line of said Lot 62; thence South along said East Line of Lot 62 to the Southeast corner of said Lot 62; thence East 242.7 feet along the South Line of said Lot 62, to the point of beginning.
2. That Part of Lot 64, Auditor's Plat "E" of the West Half of Section Seventeen 17, Township 106 North of Range 13 West in Olmsted County, Minnesota, Described as follows: Commencing for a place of beginning at the Southeast Corner of Lot 64 of said Auditor's Plat "E" running thence West along the South Line thereof a distance of 127 Feet, thence North Parallel with the West Line of Vandal's First Subdivision, a distance of 528 feet; thence East a distance of 127 feet to the Northwest Corner Lot 7, Vandal's First Subdivision; thence South a distance of 528 feet to the point of Beginning. Containing 1.539 Acres More Or Less.
3. That Part of Lot 64, Auditor's Plat "E" of the West Half of Section 17, Township 106 North Range 13 West, Olmsted County, Minnesota, Described As Follows: Commencing for a place of beginning at the Southwest Corner of Lot 55, Auditor's Plat "E" and running thence West a distance of 248.87 feet; thence North a distance of 193.6 feet to the Southwest Corner of Lot 54 of Said Auditor's Plat "E", thence East a distance of 248.87 feet; thence South a Distance of 193.6 feet to the place of Beginning, Subject to

the Right of Travel through, over and across the South 33 feet thereof.

4. That Part of Lot 64, Auditor's Plat "E" in the Southwest One-Quarter of Section 17, Township 106, Range 13, Olmsted County, Minnesota, Described as Follows: Commencing at the Northwest Corner of Lot 7, Vandal's First Subdivision, for a place of beginning and running thence North 89 degrees 36 minutes West Parallel with the south Line of said Section, a distance of 32.43 feet; thence due North a distance of 314.57 feet; thence South 89 degrees 36 minutes East a distance of 277 feet; thence due South a Distance of 314.57 feet to the North Line of said Lot 7; thence North 89 degrees 36 minutes West a distance of 244.57 feet to the place of Beginning.

ALSO LESS

Land annexed to the City of Rochester on May 17, 2007 (OA-661-8 Rochester, Resolution No. 114-07) described as the following two parcels:

Parcel 1

That part of the Southeast Quarter of the Northeast Quarter of Section 17, Township 106 North, Range 13 West. Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Northeast Quarter thence on an assumed bearing South 89 degrees 32 minutes 14 seconds West along the south line of said Southeast-Quarter of the Northeast Quarter 241.00 feet to the point of beginning; thence North 01 degree 37 minutes 50 seconds West parallel with the east line of said Southeast Quarter of the Northeast Quarter 187.80 feet; thence South 89 degrees 32 minutes 14 seconds West parallel with the south line of said Southeast Quarter of the Northeast Quarter 100.00 feet; thence South 01 degree 37 minutes 50 seconds East parallel with east line said Southeast Quarter of the Northeast Quarter 187.80 feet to the south line of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 32 minutes 14 seconds East along said south line 100.00 feet to the point of beginning containing 0.43 acres, and subject to roadway right of way along the south line thereof.

Parcel 2

That part of the Northeast Quarter of Section 17, Township 106, Range 13, Olmsted County, Minnesota, described as follows:

Beginning at a point on the South line of said Northeast Quarter of Section 17, which is 241.00 feet westerly of the Southeast corner of said Northeast Quarter; thence Northerly, parallel with the East line of said Northeast Quarter, a distance of 393.00 feet; thence Westerly, parallel with the South line of said Northeast Quarter, a distance of 242.00 feet; thence Southerly, parallel with the East line of said Northeast Quarter, a distance of 393.00 feet to the South of said Northeast Quarter; thence Easterly, along said South line, 242.00 feet to the point of beginning; the above tract being subject to roadway right of way on the South end containing 2.18 acres, including roadway right of way, and 2.0 acres, excluding roadway right of way.

Excepting the following described parcel:

That part of the Southeast Quarter of the Northeast Quarter of Section 17, Township 106 North, Range 13 West, Olmsted County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing South 89 degrees 32 minutes 14 seconds West along the south line of said Southeast Quarter of the Northeast Quarter 241.00 feet to the point of beginning; thence North 01 degree 37 minutes 50 seconds West parallel with the east line of said Southeast Quarter of the Northeast Quarter 187.80 feet; thence South 89 degrees 32 minutes 14 seconds West parallel with the south line of said Southeast Quarter of the Northeast Quarter 100.00 feet; thence South 01 degree 57 minutes 50 seconds East parallel with the east line of said Southeast Quarter of the Northeast Quarter 187.80 feet to the south line of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 32 minutes 14 seconds East along said south line 100.00 feet to the point of beginning; containing 0.43 acres, and subject to roadway right of way along the south line thereof.

Parcel 2 contains 1.75 acres including right of way.

ALSO LESS

Land annexed to the City of Rochester on July 7, 2007 (OA-661-9 Rochester,

Resolution No. 244-07) described as follows:

Lot 2, Block 2, Cedar Park First Subdivision.

The described Marion Orderly Annexation Area #3 contains in all, 363 acres more or less.

This annexation area is to include all public right-of-ways and easements within the above described areas.

3. Minnesota Statutes §414.0325, subd. 1(h) states that in certain circumstances the Chief Administrative Law Judge may review and comment, but shall within 30 days order the annexation pursuant to the terms of a joint resolution for orderly annexation.

4. The joint resolution contains all the information required by Minnesota Statutes §414.0325, subd. 1(h), including a provision that the Chief Administrative Law Judge may review and comment but shall order the annexation within 30 days in accordance with the terms of the joint resolution.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has duly acquired and now has jurisdiction of the within proceeding.

2. An order should be issued by the Assistant Chief Administrative Law Judge annexing the area described herein.

ORDER

1. The property described in Findings of Fact 2 is annexed to the City of Rochester, the same as if it had originally been made a part thereof.

2. Pursuant to Minnesota Statutes §414.036, Marion Township will be reimbursed by the City of Rochester in accordance with the terms of the joint resolution signed by the City of

Rochester on September 20, 1999 and Marion Township on September 14, 1999; and City Resolution No. 505-09.

3. The effective date of this Order is January 1, 2010.

Dated this 17th day of December, 2009.

For the Assistant Chief Administrative Law Judge
P. O. Box 64620
St. Paul, Minnesota 55164-0620

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive, flowing style.

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments