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December 21, 2023

Spring Lake Township
Attn: Melissa Hanson
20381 Fairlawn Avenue
Prior Lake, MN 55372

Re: Orderly Annexation Agreement Considerations

Dear Ms. Hanson:

Thank you for sending your response letter dated December 15, 2023. City staff had an opportunity to review and discuss the letter with our City Council annexation liaisons. Although much progress has been made, two primary objections remain; the first is related to planning and land use authority and the second is related to future road maintenance and replacement costs.

The City Council will not move forward with an agreement that does not provide an assurance that all parcels in the OAA will at some point become part of the City. We appreciate the Township's proposal to include language related to Township initiated Comp Plan amendments, but that does not address the council's concerns. The City has proposed two options acceptable to the City Council to address this concern; 1) annexing the entire OAA immediately and feathering in the property taxes over six years as allowed per state statute; or 2) delegating planning and land use authority to the City.

Below are the comments you previously provided along with the City's response shown in blue. This is the City's best and final offer.

1. Annexation eligibility - The criteria are reasonable as applicable to the various portions of the agreement, but some clarity/refinement is needed.
 - 1.2. ... make available within 150 to all annexed parcels within two years - the concern is around annexation of large sections of land with a pipe at the far end of the parcels but several years from actually serving the entire area. It arguably meets the definition of available, but the landowner pays City taxes yet doesn't have services. We would suggest some protection for those residents, perhaps detachment, if they do not have services within the required timeframe. The detachment would serve to reduce the resident tax rate until services are able to be provided. This comment is understood, but detachment is not supported as an alternative. If this agreement moves forward and the city elects not to annex areas 24.1, 24.2, and 24.3, there must be assurances that all parcels in the OAA will at some point become part of the city. Depending on the zoning authority, large parcels of land could conceivably be split in conformance with Scott County or City of Prior Lake zoning regulations and only that portion of the property necessary to extend utilities would then be annexed to minimize the property tax impact for the property owners not ready to develop.
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However, the majority of the larger parcels located within the OAA are currently classified as Green Acres from a taxing standpoint so this will not be a concern for them.

1.3 & 4.2 All references to Islands should be only applicable to the existing islands and not future islands as the Township does not control the annexation pattern of the City. This comment is acceptable to the City; references to Islands can be revised to only reflect the existing islands (areas 7.1 & 10.3).

3. Annexation Outside of the OAA - We agree that the language around Annexation outside of the agreement needs to be reviewed and would reference the language previously shared:

Development within MUSA. Except as provided in this Agreement, no development shall occur within the orderly annexation area which is outside the "MUSA" of the City of Prior Lake. Said development can occur only if all local government standards in effect on that date are complied with or are capable of being complied with in the future. The intent of this paragraph is to strongly discourage development outside the contiguous "MUSA" of the City of Prior Lake. (An exhibit would be included). The City previously proposed the following language to address this issue, "Annexation Outside of the OAA. The City and Township acknowledge property owners have a right to request annexation of property abutting the City. The City agrees it will not initiate the annexation of property located outside the OAA. Nothing in this section shall prohibit a property owner or Township from requesting the City annex parcels located outside the OAA. The City shall have sole discretion in whether or not to proceed with a request to annex property outside the OAA." It is the intent of the City to not pursue annexations outside of the OAA; however, the MUSA boundary cannot be used as a boundary because although the MUSA's current boundaries are very close to encompassing the entire OAA, there are certain areas identified in the OAA that are not within the MUSA boundary. Based on the deadlines imposed by our City Council to reach agreement on a new orderly annexation agreement, there is not enough time to amend the MUSA boundary to encompass the entire orderly annexation area. We feel the previously proposed language captures the same intent.

4. Payment by the City to the Township for Property Annexed -The tax reimbursement rate would be considered acceptable in light of leaving the areas 24.1, 24.2, 24.3 in the Township. Acknowledged.

5. Utility Rates for Township Parcels - We do not argue that a reasonable increase is appropriate but would like to discuss the max rate of 20%. Understood. City would be open to additional discussion on this topic.

6. Township Replacement of Infrastructure - The Township residents paid for the sewer and water infrastructure costs. Just as their neighbors in the City, utility fees paid to the City should pay for ongoing maintenance and future replacement costs. It makes sense that the Township would be responsible for storm sewer and road improvements costs, but the City should be responsible for project costs associated with the sanitary sewer and watermain. City agrees with your comments.

8. Planning and Land Use control - As the City has stated in the proposal and we have learned over the years of the expiring agreement, neither the City nor the Township can control progress of development and therefore cannot determine the dates in which an area may be annexed. This foundational statement is the reason the Township's Board would not be amendable to the City's proposal for Land Use Control. We believe everyone would agree that it is important that the residents who vote for their representatives are represented by them. Under the past agreement, the three-person Board was not invoked often, was efficient, and provided the necessary opportunity for

all to be heard. Recognizing the City's expressed concern over potential Township initiated Comp Plan amendments, the Township would agree not pursue Comp Plan amendments in areas covered by the Orderly Annexation Agreement. [If this agreement moves forward and the city elects not to annex areas 24.1, 24.2, and 24.3, there must be assurances that all parcels in the OAA will at some point become part of the city. The City Council will not approve an agreement that allows for the potential rezoning or reguiding of land use without City approval that negatively impacts the previous and future investments made to serve the entire OAA with municipal utilities. City staff has proposed two options that appear acceptable to the City Council to address this concern; 1\) annexing the entire OAA immediately and feathering in the property taxes; or 2\) delegating planning and land use authority to the City. This is a primary issue that must be resolved for the City Council to move forward.](#)

Roads: We understand and appreciate the concerns regarding the financing of road projects both pre and post development as well as the different policies that the City and Township have. We believe the proposed language below could address both scenarios.

The City's suggestion of a depreciating scale model works for some areas, but not all. Existing neighborhoods such as 165th St & McKay Ct can use the depreciating model as articulated in the Road Maintenance Prior to Annexation section below. New City developments would fall under the Road Maintenance Upon Development clauses. Using 170th Street as a New City development example, there is approximately 3500' of road between the Springview Meadows neighborhood and the Pieper properties to the west that could be easily subdivided. How the maintenance and reconstruction costs for that road are managed upon development are a significant concern to the Township. We feel that the language below would help avoid the issues we are currently experiencing surrounding 180th Street near the Enclave while also addressing the use of the depreciating scale model where applicable.

Road Maintenance Prior to Annexation.

The Town shall continue its normal maintenance of existing Town roads, bridges, drainage facilities, and street signage for any roads and facilities located within the Annexation Area until the property adjacent to or surrounding such roads and facilities is annexed by the City.

The City shall reimburse the Township for roads reconstructed in the annexation area that serve only township neighborhoods or industrial parks (i.e. 165th/McCay/Dairy Lane) on a depreciating and agreed upon road life, generally considered 20 years.

The City shall reimburse the Town for all unpaid amounts the Town assessed, levied, or otherwise placed against property, in addition to the regular assessment of property taxes, whether pursuant to a 429 special assessment project, 365A subordinate service district, a service charge being collected under Minnesota Statutes, section 366.012, or other amount lawfully imposed on the property prior to the effective date of the annexation of the property. The City shall also reimburse the Town for any portion of debt incurred by the Town prior to the annexation and that is attributable to the property annexed, but for which no special assessments are outstanding. The reimbursement of these amounts shall occur in substantially equal payments over a period of not less than two or no more than eight years. [The City is not opposed to including some language in the agreement related to road maintenance and the City is open to providing detail in the agreement related to a depreciating scale model to ensure township investments are recovered; however, the City would not agree to be responsible to reimburse all unpaid amounts without an ability to approve or jointly authorize such work prior to annexation. We believe the City and township have a mutual goal to](#)

ensure streets are adequately maintained and replaced as needed. Perhaps there is some language that could be considered related to a joint Township/City approval process for projects within the OAA where the city would agree to a reimbursement specific to each project if the parcel is annexed within the following XX years?

Road Maintenance upon Development

The City shall require that all roadways abutting or serving new developments shall be improved by the developer and/or property owner from the access of the development to the nearest County, City or State Road. [This is acceptable.](#)

Use of Township Roads. For all properties annexed under this Agreement, the City shall require in its developer's agreements that during plat development (including construction of residences) all construction traffic shall use State Trunk Highways, Scott County Highways or Prior Lake city streets, and that Township roads be used only when no State Trunk Highway, Scott County Highway or Prior Lake city street is available. The City's developer's agreements shall also require that the Developer pay the Township for the cost to repair any road damage that may occur as a result of construction traffic using Township roads. [The proposed language related to use of Township roads can be included in future development agreements.](#) The City has standard "Clean Up and Damage" language in our development agreements as detailed below.

CLEAN UP AND DAMAGE:

- A. [Developer assumes full financial responsibility for any damage which may occur to public property including but not limited to streets, street sub- base, base, bituminous surface, curb, utility system including but not limited to water main, sanitary sewer or storm sewer when said damage occurs as a result of the activity which takes place during the development of the Property. Developer further agrees to pay all costs required to repair the streets, utility systems and other public property damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place on the Property.](#)
- B. [Developer shall clean the streets every day or as required by the City Engineer or his/her designee.](#)
- C. [Developer agrees that any damage to public property occurring as a result of construction activity on the Property shall be repaired immediately if deemed to be an emergency by the City Engineer or his/her designee. Developer further agrees that any damage to public property as a result of construction activity on the Property shall be repaired within 14 days if not deemed to be an emergency by the City Engineer or his/her designee.](#)

Maintenance - (deicing, plowing, seal coating, crack sealing - on going maintenance items). The City shall maintain the entire road (i.e. both sides of the road) where the City has annexed property abutting one side of the road and has developed a residential, commercial or industrial subdivision abutting such road that accesses to such road. The length of road required to be maintained shall be limited to the length of road directly abutting the property annexed under this Agreement. [This is acceptable.](#)

Costs for Reconstruction/Road Improvements of Joint City/Town roads will be based on the representative number of homes taking access from or abutting the road or based on MnDOT traffic count assumptions per home or in the alternative could be based on the Fire Contract Model. (Per Home Example: 25 Township and 150 City properties take access from Joint/City Town Road 14% of costs to Township, 86% City). [As stated during previous OAA work group conversations, the City](#)

is committed to meeting with the Township to discuss and identify a solution for street reconstruction and road improvements; however, the City does not feel an annexation agreement is the place for this language. In addition, we do not believe there is sufficient time to resolve this topic given the timeline to initiate the annexation of 24.1, 24.2, and 24.3.

Undue Burden on Town Roads. The Township and City recognize that there may be instances where it is appropriate for the City to assume responsibility to maintain additional portions of Town roads because City development imposes an undue burden on Town roads that serve the annexed property. The City and Township agree to negotiate in good faith to find an equitable solution. [This is acceptable.](#)

Permitting. Each side of the ROW, regardless of road management obligations, will be the responsibility of the respective municipality for purposes of permitting. [This is acceptable.](#)

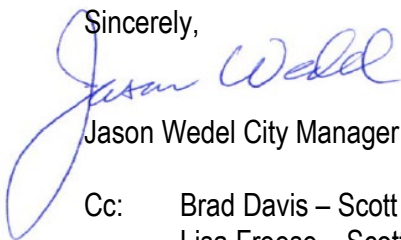
Again, we acknowledge the proposal is a framework for an agreement and issues of tax phasing, grinder pump, septic credit issues and other specifics will need to be addressed before a final agreement is reached. We feel that things are moving in a positive direction for the win-win-win that all are striving to achieve and look forward to hearing from you. [Agreed.](#)

The two primary issues that need to be resolved for the City Council to feel comfortable moving forward with orderly annexation agreement negotiations are 1) the Township and City agreeing to annex the entire orderly annexation area at once or provide the City with planning and land use authority, and 2) an acknowledgement from the Township that the road maintenance and replacement cost share discussion will be addressed outside of the orderly annexation agreement discussion. City staff has received direction from our City Council liaisons that we are to proceed with the annexation of areas 24.1, 24.2, and 24.3 if we are unable to resolve these two primary issues.

The City Council has provided city staff with a deadline to finalize the framework for a new annexation agreement by the end of the year as the timeline to initiate the annexation of areas 24.1, 24.2, and 24.3 is upon us. I understand we are coming up on the holiday season and am not aware of your upcoming meeting schedule, but we would request a response to this letter by January 2, 2024.

Thank you again for your continued cooperation as we navigate this complicated process.

Sincerely,



Jason Wedel City Manager

Cc: Brad Davis – Scott County
Lisa Freese – Scott County
Barry Stock – Scott County CDA
Jo Foust – Scott County CDA
Matt Stordahl – Township Engineer