



May 6, 2021

To: The Honorable Jackson Township Board Members

Re: Jackson Township Board's request to approve property owner annexation petitions within Zones E and F

Dear Jackson Township Board Members:

While working together to form the Orderly Annexation Agreement (OAA), we had two types of annexations that were covered – when the city would seek to annex, and when property owners wished to annex of their own right. As the OAA clearly states, the city will not look to annex any property in Sections E and F at least until 2050. The city has and will continue to fully adhere to the terms of the OAA. However, the OAA did not curtail the actions of an individual property owner.

As requested, we have reviewed whether it is possible to have the Jackson Township Board approve all landowner requested annexations for property located in Zones E and F, and if so whether the city would agree to that requirement. After review, we believe that state statutes give an abutting property owner the right to request annexation into the city. They start this process by petitioning the city council.

Section 1.7 of the OAA clearly states that *"The terms and conditions of this Agreement are created as an addition or complement to the requirements for annexation required by law. The language contained herein shall in no way be deemed to circumvent or reduce requirements established by law."* As such, there is certainly a legal argument that any infringement upon the right of a property owner as outlined in state law could be litigated.

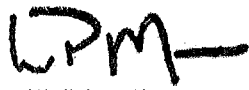
It is our belief that this is an issue between the landowner and the township. However, the problem arises when a landowner petitions the city. If the city were to refuse to accept that petition and require the landowner to first get approval from the town board, it is the city (not the township) who would then be blocking the landowner's statutory right to petition for annexation. The city then could be the target for a lawsuit if approval is not granted by the township. The city cannot accept that risk.

We have no problem referring such petitioners to the township for comment, as has been our custom the last few times a petitioner has come forward.

The city sat down with the township and negotiated the OAA in good faith for over 18 months. During that time, every comma was scrutinized by all of us as we worked to reach an agreement. We both had legal counsel who actively participated as we worked to form an agreement in which we all understood and accepted.

Recently, the township objected to a property owner's annexation petition and the case went before an administrative law judge. The judge determined that not only did the petition fall within the agreement, but also noted that your legal counsel *"specifically stated that the Township's objection raised no legal issue for determination nor any claim that the requested annexation, commenced through the filing of the property owner's petition, failed to comply with the terms of the [OAA]."* Consequently, it appears that any

future objections by the township to landowner-initiated petitions would only keep our lawyers needlessly occupied.

A stylized handwritten signature in black ink, appearing to read 'WPM' followed by a horizontal line.

William P. Mars
Mayor

A handwritten signature in black ink, consisting of a large, loopy 'W' and 'R' intertwined.

William H. Reynolds
City Administrator

#30 in *Money Magazine's "Best Places to Live"*
League of Minnesota Cities "City of Excellence"
International Association of Chiefs of Police "Leadership Award"