

Town of LeSauk Resolution No. 2021-17

City of Sartell Resolution No. 2021-44

**AMENDED AND RESTATED JOINT RESOLUTION FOR ORDERLY ANNEXATION
BETWEEN THE TOWN OF LESAUK AND THE CITY OF SARTELL, MINNESOTA**

WHEREAS, the Town of LeSauk (“**Town**”) and the City of Sartell (“**City**”) have adopted a joint resolution for annexation on October 26, 1992, amended the joint resolution on October 24, 1995, and further amended the joint resolution on April 9, 2001 (collectively the “**Prior Resolution**”);

WHEREAS, on April 20, 2020, the Town and City significantly revised the zoning ordinance (“**Ordinance**”) applicable to the designated Orderly Annexation Area (“**OAA**”) and adopted an updated joint planning board joint powers agreement (“**Zoning JPA**”) on October 27, 2020 to reflect the revisions to the Ordinance;

WHEREAS, the revisions made to the Ordinance and Zoning JPA necessitate the parties to revise the Prior Resolution to reflect updated policies with respect to annexations within the OAA;

WHEREAS, the history of annexations under the Prior Resolution has resulted in certain lands that are substantially or completely surrounded by the City’s boundaries, are near areas that have City services, or that are near planned City improvement projects, such identified encompassed lands (“**Encompassed Lands**”) are listed on the attached Exhibit C;

WHEREAS, the parties desire to provide a process for the City to annex certain Encompassed Lands and to provide for the imposition of a deferred assessment on the other Encompassed Lands to protect the City’s investment in the improvements it constructs while allowing the parcels to remain in the Town;

WHEREAS, the City and Town have entered into a joint powers agreement (“**Deferred Assessment JPA**”) to facilitate the imposition of deferred assessments on the Encompassed Lands designated to remain in the Town;

WHEREAS, the City and Town intend this joint resolution (“**Joint Resolution**”) to replace the Prior Resolution in order to incorporate the present policies, understandings and agreements of the Town and City as embodied in the recently revised Ordinance and Zoning JPA; and

WHEREAS, this Joint Resolution does not change the OAA area designated in the Prior Resolution and so the notice provided for in Minnesota Statutes § 414.0325, subd. 1b is not required.

NOW, THEREFORE, the Town and City hereby resolve and agree as follows:

1. **Confer Jurisdiction.** This Joint Resolution, which is adopted pursuant to Minnesota Statutes § 414.0325, shall confer jurisdiction upon the Municipal Boundary Adjustments Unit of the Office of Administrative Hearings (“**Adjustments Unit**”) to complete orderly annexations in accordance with the terms of this Joint Resolution. The Town and City mutually state that the Adjustments Unit shall not alter the boundaries of the OAA, nor any areas provided in Section 4. This Joint Resolution sets forth all the conditions for annexation of the areas within the OAA and no consideration by the Adjustments Unit is necessary. The Adjustments Unit may review and comment, but shall order annexations complying with the terms of this Joint Resolution within 30 days after submission by the City of a resolution complying with this Joint Resolution.
2. **Joint Planning Board.** The Town and City have established a Joint Planning Board pursuant to Minnesota Statutes § 414.0325, subd. 5, Minnesota Statutes § 471.59, and the Zoning JPA for the purpose of administering zoning and subdivision regulations within the OAA. The Zoning JPA and Ordinance provide for the division of authority over zoning and subdivision decisions among the Town, the Joint Planning Board, and the City. The Town and City mutually agree that the Joint Planning Board will continue to review the factors impacting orderly annexation and report to the Town Board and City Council any recommendations for changing the conditions for orderly annexation as it determines is appropriate.
3. **Rural Preservation and Urban Development.** A key purpose of this Joint Resolution is to ensure that certain rural areas of the Town are preserved and protected from urbanization without annexation into the City. Similarly, another key purpose is to ensure logical growth and development of the City as it relates to investment in and planning for municipal infrastructure and other municipal services.
4. **Designation of the Orderly Annexation Area.** The Town and City have previously designated the entire territory of the Town as the Orderly Annexation Area pursuant to Minnesota Statutes § 414.0325. The Town and City affirm that designation of the OAA as legally described in Exhibit A and depicted in Exhibit B. Further, the Town and City adopt the additional designations of Encompassed Lands for certain lands that are either significantly or fully surrounded by the City and are separate and distinct from the rest of the lands within the OAA as identified in Exhibit C as being within either category a. or b.
5. **Terms and Conditions for Orderly Annexation.** The Town and City mutually agree that the following terms and conditions shall govern annexation of property within the OAA:
 - a. **Generally.** Properties within OAA that abut the City may be annexed into the City upon petition by the property owner in accordance with Section 6.
 - b. **Encompassed Lands.** Parcels designated as Encompassed Lands in Exhibit C may be annexed into the City if:

- i. The property owner petitions for annexation in accordance with Section 6; or
 - ii. The City, on its own initiative, may annex any Encompassed Lands qualifying under Section 7 paragraphs a. or b. by following the process set out in Section 7.
- c. **City Owned Property.** The City may annex the following property owned by the City:
- i. Any property owned by the City on the effective date of this Joint Resolution in accordance with Section 8.
 - ii. Any new property acquired in fee by the City, or any entity established by the City, after the effective date of this Joint Resolution, that is put to a public use such as public buildings, parks, and the immediately adjacent roads or utility infrastructure.

Any other property acquired by the City, or any entity established by the City, occurring after the effective date of this Joint Resolution may only be annexed if Town agrees to the annexation.

6. **Annexation Petition Process.** All annexations requiring a petition as identified in Section 5 shall follow the procedures in this Section:
- a. **General Petition Requirements.** Any property owner seeking annexation shall submit to the City a petition signed by at least 60% of the property owners of record for the area requested to be annexed. The City shall promptly provide a copy of the petition to the Town.
 - b. **Approval of Unanimous Petition.** No hearing is required for any petition containing signatures of 100% of the property owners of record. The City will indicate if it determines a petition is signed by 100% of the owners when it provides a copy of the petition to the Town. The City shall provide 30 days for the Town to comment on a unanimous annexation petition before acting on the annexation request.
 - c. **Approval of Less Than Unanimous Petition.** Any petition containing less than 100% of the property owners of record shall require a joint public hearing of the Town Board and the City Council with at least 10 days' mailed notice to all owners of record that are proposed to be annexed. Annexation of properties containing less than 100% of the signatures of the property owners of record requires approval of a majority of each the Town Board and City Council.
 - d. **City Not Required to Annex.** The City is not required to annex any property for which it receives a petition under this Joint Resolution and instead retains the discretion to determine whether to approve or deny any requested annexation.
7. **Annexation of Encompassed Lands.** The City may initiate annexation of Encompassed Lands identified in paragraphs a. or b. below at any time in accordance with this Section.

There are three designations of Encompassed Lands, as explained in the following paragraphs, and the designation of each parcel constituting Enclosed Lands is identified in Exhibit C. For any of the Encompassed Lands listed in Exhibit C as meeting the conditions in paragraphs a. or b., the City may annex those parcels upon completion of a public hearing as provided in this Section. For parcels meeting the conditions in paragraph c. and designated as deferred assessment in Exhibit C, the City may impose a deferred assessment on the parcels pursuant to the Deferred Assessment JPA, but may not initiate annexation of such parcels without the consent of the owners.

- a. Completely Surrounded and Utilities. The parcel, or parcels under common ownership, are completely surrounded by land within municipal limits and City sanitary sewer or water is located within 100 feet of the parcel. The parcels subject to annexation under this paragraph are identified in Exhibit C as being in category a.
- b. Pinecone Road and Utilities. Any portion of the parcel lies within 850 feet of Pinecone Road between 6th Street South and 15th Street North. The parcels subject to annexation under this paragraph are identified in Exhibit C as being in category b.
- c. Deferred Assessment. The parcel or parcels are within 300 feet of an assessable City improvement project and are subject to the imposition by the City of a deferred assessment under the Deferred Assessment JPA. The parcels subject to a deferred assessment are identified in Exhibit C as deferred assessment. These parcels are only subject to annexation upon owner petition as provided in Section 6.

Annexation by the City pursuant to paragraphs a. or b. above, or the imposition of a deferred assessment under paragraph c., shall follow the project timeline established in Exhibit C. The City may not annex property pursuant to paragraphs a. or b. earlier than three years from the date this Joint Resolution is approved by the Office of Administrative Hearings, unless the property owner consents to and requests the initiation of annexation.

Once a parcel or parcels described in paragraphs a. or b. become eligible for annexation, the City may initiate the annexation process by providing written notice to the Town and all owners of record of the Encompassed Lands proposed to be annexed. The notice shall provide for a 30-day period in which the affected owners may submit written comments to the City and the date on which the City will hold a public hearing on the proposed annexation. The City shall consider the written comments received and hear from those who attend the public hearing. After the hearing, the City may elect to proceed with the annexation of all or some of the parcels as provided in Section 9.

8. Annexation of City Owned Property. The City may initiate annexation of property the City owns as of the effective date of this Joint Resolution or that is owned in fee and put to a public use such as public buildings, parks, and immediately adjacent roads or utility infrastructure as it determines is appropriate. All such annexations shall be in accordance

with Section 9. Written consent of the Town Board is required to annex any other property the City acquires after the effective date of this Joint Resolution.

9. **Procedures and Requirements.** All annexations occurring pursuant to this Joint Resolution shall comply with this Section.

- a. **City Resolution.** The City shall act by resolution to annex land within the OAA after having completed all applicable procedures as provided in this Joint Resolution. The City is solely responsible for preparing and filing all such resolutions with the Adjustments Unit annexations and for paying all related costs. The City shall also be responsible for filing this Joint Resolution.
- b. **Tax Reimbursement.** The Town retains the taxes levied on any property that is annexed on or before August 1 of a levy year and collected in the following year. Starting in the first year the City becomes the levying authority on the annexed property, the City shall make a cash payment to the Town to reimburse it for lost tax revenues in accordance with the following schedule:

Year City Becomes Taxing Authority	Percentage of Town Property Tax Paid to Town Each Year
1 st Year	90%
2 nd Year	70%
3 rd Year	50%
4 th Year	30%
5 th Year	10%
6 th Year	0%

The percentage of property tax the City is required to pay the Town is fixed at the lesser of (i) last amount of property taxes payable to the Town from the annexed property or (ii) the amount of property taxes payable under the City's tax rate, and does not increase even though the amount of property taxes collected from the property may increase during the reimbursement period. The City shall pay the required amount to the Town within 30 days of the City's receipt of the first tax distribution in a year. The City may elect at any time to pay the Town the entire outstanding amount of reimbursement payments due on a property in a single payment. The City may retain any property taxes paid on the property that exceed the required payment amount to the Town.

- c. **Special Assessments.** The City shall collect and pay to the Town any outstanding assessments for public improvements or services imposed by the Town under Minnesota Statutes, chapters 429, 365A, or other law on property annexed by the City. The City shall pay such amounts over to the Town within 30 days of each tax distribution containing the assessed amounts until the assessment, including applicable interest, imposed on the Property is paid in full.

- d. Outstanding Debt. The City shall collect from property taxes and forward to the Town any outstanding portion of Town debt attributable to property it annexes that is not being collected as a special assessment. The Town shall provide to the City the information regarding the amount of debt attributable to the property being annexed. The City shall pay such amounts over to the Town within 30 days of each tax distribution containing the debt payment until the debt, including applicable interest, attributable to the property is paid in full.
 - e. Road Maintenance. When the City annexes up to or across a Town road right-of-way, that portion of the road, and any segment of the road between that portion and the City's boundary, become a City street and the City shall become responsible for maintaining it in the same manner as its other streets, unless the City and the Town agree otherwise in writing with respect to a particular road.
 - f. Nonconforming Uses. Land annexed pursuant to this Joint Resolution that has a structure or use that is or becomes lawfully nonconforming shall be permitted to continue in accordance with Minnesota Statute § 462.357, Subd. 1e.
10. Differential Taxation. Property annexed pursuant to this Joint Resolution shall be subject to differential taxation, as provided in Minnesota Statutes, section 414.035, so that the tax rate applicable to the property after annexation shall be increased in substantially equal proportions over five years from the Town's tax rate in the year of annexation to the City's tax rate applicable to similar property in the City. If annexed property develops prior to the completion of the five-year differential period, the City's full tax rate shall apply to newly developed property based upon the tax assessor's inclusion of the development in the market value of the property. "Newly developed property" shall mean property that is platted after the date of annexation or property that experiences a change in use to multi-family residential, commercial, or industrial uses after the date of annexation (for example: a new commercial building constructed on previously vacant land in the second year of five-year period, assessor includes the new commercial value in third year, the City's full tax rate will apply in the third year due to development, which is then payable in the fourth year).
11. Special Assessments. For any Encompassed Lands located within 300 feet of any new or expanded City road, sanitary sewer line, or water line constructed after the date of this Joint Resolution, the Town agrees, pursuant to the Deferred Assessment JPA, to facilitate deferred special assessments for the City in lieu of involuntary annexation.
12. Annexation of Entire Township. The Town and City agree that when at least fifty-one percent of the property owners of record of the Town petition for annexation, and the petition is approved by the Town Board, the City shall approve the annexation and forward the petition to the Adjustments Unit for review and approval.
13. Binding Agreement. Pursuant to Minnesota Statutes § 414.0325, subdivision 6, and by agreement of the parties hereto, this Joint Resolution is a binding agreement on the parties and its terms are not preempted by the provisions of Minnesota Statutes, Chapter

414 or other law as it may now exist or may later be adopted or amended. The parties intend this Joint Resolution to set out exclusive procedures for annexing property within the OAA. The City agrees to oppose any effort to annex property within the OAA that does not comply with the terms of this Joint Resolution.

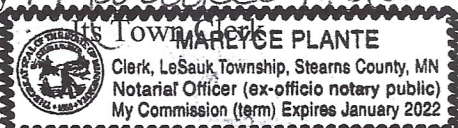
14. **Severability.** Should any provision of this Joint Resolution be held to be void or unconstitutional, the remaining provisions shall remain in full force and effect.
15. **Effective Date.** This Joint Resolution shall be effective after its adoption by the parties and upon the filing date as assigned by the Adjustments Unit. This Joint Resolution supersedes the Prior Resolution, which is hereby repealed and terminated. This Joint Resolution shall remain in effect until all land within the OAA is annexed by the City or until the parties agree to amend or rescind it.

Adopted by the Town Board of Supervisors for the Town of LeSauk this 27th day of July 2021.

TOWN OF LE SAUK

By Daniel F. Hux
Its Chairperson

Attest:

By Marlyce L. Plante
Its Town Clerk
MAREYCE PLANTE
Clerk, LeSauk Township, Stearns County, MN
Notarial Officer (ex-officio notary public)
My Commission (term) Expires January 2022

STATE OF MINNESOTA)

COUNTY OF Stearns) SS

The foregoing was acknowledged before me the 29 day of July 2021, by Dan Heim and Marlyce Plante, the Chairperson and Town Clerk, respectively, of the Town of LeSauk.

Megan M Theisen
Notary Public
Minnesota
My Commission Expires January 31, 2022

Megan M. Theisen
Notary Public

Adopted by the City Council for the City of Sartell this 9th day of August, 2021.

CITY OF SARTELL

By [Signature]
Its Mayor

Attest:

By [Signature]
Its City Administrator

STATE OF MINNESOTA)
) ss
COUNTY OF STEARNS)

The foregoing was acknowledged before me the 9 day of August, 2021, by Ryan Fitzthum and Anna Gruber, the Mayor and City Administrator, respectively, of the City of Sartell.

[Signature]
Notary Public

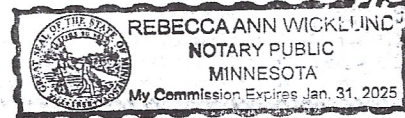


EXHIBIT A

(Legal Description of Orderly Annexation Area)

The entire territory of LeSauk Township, Township 125 North, Range 28 West, Stearns County, Minnesota.

(Map of Orderly Annexation Area)

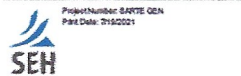


FIGURE 1
LeSauk Township Parcel Map

EXHIBIT C

(Encompassed Lands)

The parcels identified in yellow on the map below, also identified by the following tax PID numbers (to the extent there are any inconsistencies between this list and the map, this list shall be controlling):

<u>Parcel ID</u>	<u>General Location</u>	<u>Project Timeline</u>	<u>OAA Category Paragraph 7</u>
17092210002	G&M Dehler Trust	Sauk Riv Reg Park Fall 2021	a
17092490000	G&M Dehler Trust	Sauk Riv Reg Park Fall 2021	a
17091660000	Eugene Then Trust	Scout & Dehler Fall 2021	deferred assessment
17091670000	Eugene Then Trust	Scout & Dehler Fall 2021	deferred assessment
17091570000	Wollak Development Corp	Scout & Dehler Fall 2021	deferred assessment
17091570010	Mark & Jeanne Skaj	Scout & Dehler Fall 2021	deferred assessment
17091590000	Thomas Weihrauch Trust	Scout & Dehler Fall 2021	deferred assessment
17091600000	Michael & Wilfred Weyer	Scout & Dehler Fall 2021	deferred assessment
17091570015	Skaj Properties	Scout & Dehler Fall 2021	deferred assessment
17091680005	Kruchten Family Partnership	Scout & Dehler Fall 2021	deferred assessment
17091680010	Debra Weihrauch	Scout & Dehler Fall 2021	deferred assessment
17091680015	Mark Weihrauch	Scout & Dehler Fall 2021	deferred assessment
17091690500	United Meth Church	Scout & Dehler Fall 2021	deferred assessment
17091690000	United Meth Church	Scout & Dehler Fall 2021	deferred assessment
17091700000	Esther Then Trust	Scout & Dehler Fall 2021	deferred assessment
17090780015	Ferche Family Partnership	N/A	a
17090780000	Ferche Family Partnership	N/A	a
17090970000	Donald & Agnes Then	N/A	a

17091140000	Arnold & Jeanette Bechtold	19th Ave South Spring 2022	deferred assessment
17091320001	Michael & Laurie Kremer	19th Ave South Spring 2022	deferred assessment
17094090050	Daniel & Diane Fish	19th Ave South Spring 2022	deferred assessment
17090610000	Robert Koenig Trust	N/A	a
17090670000	David & Soledad Petron	N/A	a
17093940000	Peter Koenig	N/A	a
17090650000	Taggart & Tammie Downare	N/A	a
17090170007	Waters Church	N/A	b
17090290010	Victory Baptist	N/A	a or b
17090190005	Marla Lahr	N/A	deferred assessment
17090730005	Timothy Ehle	N/A	a
17090730003	Ben Johnson	N/A	a
17094500005	Doug & Donna Novak	N/A	b
17094500000	Lyle Traut	N/A	b
17090890000	Kevin & Margaret Starry	N/A	b
17090820000	Kraig Smoley	N/A	b
17090840000	Bryan Bidinger	N/A	b
17090850000	Robert Bidinger	N/A	b
17090210000	Jeffrey & Janette Ditlefsen	15th Street N after 2022	b
17090220000	MN Construction Specialists	15th Street N after 2022	b
17092370000	KB Sartell Holdings	N/A	a
17090800000	AIM Development	N/A	a

