

MEMORANDUM OF UNDERSTANDING

**Between the City of Lake Elmo and the Metropolitan Council
Regarding Comprehensive Planning Issues**

WHEREAS, on August 5, 2004 the Minnesota Supreme Court issued a decision in a matter entitled *City of Lake Elmo v. Metropolitan Council*, 685 N.W.2d 1 (Minn. 2004) that resolved certain local and regional comprehensive planning issues raised by the City of Lake Elmo (“City”) during the 1998 decennial local comprehensive plan review and update process required by Minnesota Statutes section 473.864; and

WHEREAS, various local and regional comprehensive planning issues that arose after the Supreme Court’s decision have been addressed by the Metropolitan Council (“Council”) and the City through formal resolutions and binding memoranda of understanding, including:

- *Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council* (Jan. 27, 2005) (outlining criteria to be considered in preparation of City comprehensive plan);
- *Metropolitan Council Resolution No. 2005-04* (adopted Feb. 9, 2005) (ratifying the January 27, 2005 Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council outlining criteria to be considered in preparing a modified City comprehensive plan);
- *Metropolitan Council Resolution No. 2005-20* (adopted July 27, 2005) (granting the City of Lake Elmo’s request to extend the time within which the City must adopt a local comprehensive plan with required modifications and attaching reasonable requirements and conditions to the extension including “Wastewater Inefficiency Fee” provisions);
- *Metropolitan Council Resolution No. 2007-01* (adopted Jan. 17, 2007) (granting the City of Lake Elmo’s request to extend the time within which the City must amend official controls that conflict with the City’s adopted local comprehensive plan and attaching reasonable requirements and conditions to the extension);
- *Metropolitan Council Resolution No. 2010-08* (adopted Mar. 24, 2010) (granting the City of Lake Elmo’s request for temporary relief from “Wastewater Inefficiency Fee” imposed under Metropolitan Council Resolution No. 2005-20);
- *City of Lake Elmo Resolution No. 2010-065* (adopted Nov. 16, 2010) (acknowledging modification to Wastewater Inefficiency Fee provisions and stating the City’s continued agreement to comply with the terms and conditions stated in Metropolitan Council Resolution No. 2005-20);
- *Memorandum of Understanding between the City of Lake Elmo and the Metropolitan Council* (Dec. 30, 2010) (regarding Wastewater Inefficiency Fees).

WHEREAS, the City prepared a proposed amendment to its comprehensive plan for the South of 10th Street Area, but the staging of development served by regional wastewater service may not technically comply with the requirements established in Council resolutions or memoranda of understanding between the Council and the City; and

PROPOSED

WHEREAS, the City’ proposed comprehensive plan amendment reflected the City’s efforts to plan consistent with Council resolutions, the memoranda of understanding and the Metropolitan Land Planning Act, as well as the Council’s adopted policies and metropolitan system plans; and

WHEREAS, as the Council updates its metropolitan development guide it will examine forecasted growth through 2040 and continue a dialog with the City regarding long-term forecasted growth and pace of growth for the City; and

WHEREAS, at its February 27, 2013 regular meeting the Council adopted Metropolitan Council Resolution No. 2013-1 which amended Paragraph 3(i) of Metropolitan Council Resolution No. 2005-04 (as amended on March 24, 2010) to reflect a revised schedule for development through 2030; and

WHEREAS, the modification/clarification made by Resolution No. 2013-01 is effective on the date the Council and the City enter into a binding agreement under which the City acknowledges the modification/clarification and states its continuing agreement to comply with the requirements and conditions stated in previous Council resolutions and the memoranda of understanding entered into by the Council and the City.

NOW THEREFORE, the City and the Council agree as follows:

1. Paragraph 2 of the December 30, 2010 Memorandum of Understanding is revised as follows:

Year	Households	Population	New Sewered*	
			Residential Equivalent Connections (REC)	
2015	3,519	9,677	515	(all residential)
2020	5,114	14,064	2,170	(1,650 residential; 520 employment)
2025	6,524	17,941	3,670	(2,700 residential; 970 employment)
2030	8,727	24,000	5,600	(4,200 residential; 1,400 employment)

* Notes: Excludes 500 existing RECs in Cimarron, 200 existing RECs in the Village and 300 existing RECs within the Eagles Point Business Park as reported by City for 2030.

There currently are 100 sewered employment RECs within the Eagles Point Business Park not included in above table.

This table differs from the table in Paragraph 1 of Council Resolution No. 2013-1 but essentially presents the same information. The difference between the numerical data in the tables (MOU vs. Resolution) reflects the existing “on-the-ground” development which includes 500 existing Cimarron RECs, plus the 200 existing Village RECs and the existing 100 RECs in the Eagles Point Business Park. There also are 200 additional assigned RECs in the Business Park. The MOU focuses on new development that will use regional infrastructure and therefore excludes these RECs in the table counts; Resolution No. 2013-1 focuses on “total RECs” and therefore includes these RECs in the table counts.

3. This revised Paragraph 2 incorporates the temporary relief granted pursuant to Paragraphs 5 and 7 of the December 30, 2010 Memorandum of Understanding.

PROPOSED

4. The City acknowledges the Council intends to issue a new System Statement and new forecast by December 31, 2015. The new forecast shall be incorporated into this Memorandum of Understanding by future amendment, prior to imposition of Wastewater Inefficiency Fees pursuant to Paragraph 6 of the December 30, 2010 Memorandum of Understanding.
5. The City acknowledges, and the parties intend, that this Memorandum of Understanding shall be a binding agreement.
6. The City agrees to comply with the requirements and conditions stated in previous Council resolutions and memoranda of understanding entered into by the Council and the City.
7. The City and the Council have caused this Memorandum of Understanding to be executed by their duly authorized representatives.
8. This Memorandum of Understanding is effective on the date this agreement is signed by the Council's authorized representative.

On behalf of the City of Lake Elmo:

By: _____
Mike Pearson, Mayor

Date: _____

On behalf of the Metropolitan Council:

By: _____
Patrick P. Born, Regional Administrator

Date: _____