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State Auditor

Suite 500  
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Saint Paul, MN 55103

December 14, 2021

The Honorable Lyle Peterson  
Chair, Spencer Brook Town Board  
6978 305<sup>th</sup> Avenue Northwest  
Princeton, Minnesota 55371

Dear Chair Peterson:

The Office of the State Auditor (OSA) received concerns about the Town of Spencer Brook (Town). Specifically, concerns were raised about the Town's certified levy. In response to these concerns, the OSA contacted Isanti County (County) and the Town and requested certain documents, including the Town's certified levy for property taxes payable in the years 2019, 2020, and 2021, and the Town's Annual Meeting minutes for 2018, 2019, 2020, and 2021. Based on this review, the OSA found that the levy certified to the County by the Town for taxes payable in the year 2021 exceeded the amount approved by the voters by \$11,460.

This letter contains the OSA's findings and internal control recommendations to help the Town comply with Minnesota law.

### **Background**

The Town has a population of 1,670 and is governed by a three-member Town Board. The Town has a separate elected Clerk and Treasurer. The Town's 2020 annual Statement of Receipts, Disbursements and Balances reported receipts totaling \$545,263.<sup>1</sup>

### **Minnesota Law**

Minnesota law provides certain powers to the electors of a town that are decided at the annual town meeting.<sup>2</sup> The town "electors may vote money to repair and build roads and bridges" and "may also vote as much money as they consider expedient for the good of the town."<sup>3</sup> It is the role of the town board "to raise money authorized to be raised by the vote of the town meeting for general purposes" and "to raise money directed by law to be raised for any town purpose."<sup>4</sup>

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<sup>1</sup> See Spencer Brook Township Statement of Receipts, Disbursements and Balance (Schedule 1) as of 12/31/2020.

<sup>2</sup> See Minn. Stat. § 365.10.

<sup>3</sup> See Minn. Stat. § 365.10 subd. 4.

<sup>4</sup> See Minn. Stat. § 365.07 (3)(4).

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The Minnesota Association of Townships emphasizes the importance of the role of the electors in its 2020 Manual on Town Government:

There are few powers held exclusively by the electors, but they include one of the most significant powers – the authority to set the tax levy. The town board prepares and presents a budget to the electors, including recommended levy amounts, but the electors decide the maximum levy allowed for the next year. The ability to set the levy has an enormous impact on the town, even in areas where the board has exclusive decision-making authority.<sup>5</sup>

The town must certify the levy to the county auditor.<sup>6</sup>

### **OSA Review and Finding**

#### **Comparison of Certified Levy to Annual Meeting Minutes**

During its review, the OSA compared the Town's certified levy for property taxes payable in the years 2019, 2020, and 2021, and the Town's Annual Meeting minutes for 2018, 2019, 2020, and 2021.

First, the OSA found that the Town amended its certified levy for property taxes payable in the year 2019 on October 16, 2018. The Town electors at the annual Town meeting had voted "for a one percent increase to the Road and Bridge."<sup>7</sup> However, the levy as first certified to the County included money to repair roads and bridges totaling \$396,240 - an apparent 10% increase from the prior year. This mistake was corrected with an amended levy certification that reduced this amount to \$363,820 to repair roads and bridges - an apparent 1% increase from the prior year.

Next, the OSA found that the Town-certified levy for property taxes payable in the year 2020 certified money to repair road and bridges totaling \$382,012. This amount appears to be consistent with the increase the electors voted to approve at the annual meeting.<sup>8</sup>

Finally, the OSA found that the Town-certified levy for property taxes payable in the year 2021 included money to repair road and bridges totaling \$401,112. The electors, however, had voted to approve a "2 percent increase to the Road and Bridge" from the prior year, which totals to \$389,652 ( $\$382,012 * 1.02$ ).<sup>9</sup> The difference between the certified levy to repair road and bridges and the amount approved by the electors appears to be \$11,460 ( $\$401,112 - \$389,652$ ). The Town-certified levy was inaccurate.

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<sup>5</sup> 2020 Manual on Town Government, ch. 5, p. 29 (Minn. Assoc. of Townships).

<sup>6</sup> See Minn. Stat. § 275.07, subd. 1(b).

<sup>7</sup> See Town Annual Meeting minutes dated March 13, 2018.

<sup>8</sup> The electors voted to approve a "5 percent increase to the Road and Bridge" or \$382,011 ( $\$363,820 * 1.05$ ). See Town Annual Meeting minutes dated March 12, 2019.

<sup>9</sup> See Town Annual Meeting minutes dated March 10, 2020.

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**Recommendation**

Due to the importance of certifying levies accurately, we urge the Town to review and update its process for submitting the Town's certified levy to the County. To assist in this process, the OSA suggests that the Town implement an internal control that requires a review and recalculation of the certified levy by a separate individual before it is sent to the County.

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We remain available to provide you with additional assistance in this matter, should you need it. You can contact me at (651) 296-4717 or [Mark.Kerr@osa.state.mn.us](mailto:Mark.Kerr@osa.state.mn.us), or Nichole Bjornrud, CPA, CFE, at (651) 282-2750 or [Nichole.Bjornrud@osa.state.mn.us](mailto:Nichole.Bjornrud@osa.state.mn.us).

Sincerely,  
*/s/ Mark F. Kerr*  
Mark F. Kerr, JD, CFE  
Special Investigations Director  
Office of the State Auditor  
(651)296-4717

cc: The Honorable Arvid Jenkins, Town Board Supervisor  
The Honorable Brad Brown, Town Board Supervisor  
Jennifer Jenkins, Town Clerk  
Debra Nelson, Town Treasurer