

CITY OF FOLEY RESOLUTION #2021-09
GILMANTON TOWNSHIP RESOLUTION #2021-01

**JOINT RESOLUTION FOR ORDERLY ANNEXATION AND JOINT PLANNING
AGREEMENT BETWEEN GILMANTON TOWNSHIP AND THE CITY OF FOLEY**

WHEREAS, the Town of Gilmanton (“Town”) and the City of Foley (“City”) have had discussions regarding the planning and development of lands adjacent to the City;

WHEREAS, the Town and City jointly agree that both intend to conserve agricultural lands and promote growth and development in appropriate areas only upon annexation to the City;

WHEREAS, the Town and City jointly enter into this Agreement to establish an orderly annexation area and adopted land use controls;

WHEREAS, the Town and City jointly agree that lands within the orderly annexation area should be governed by the land use controls of the City instead of Benton County;

WHEREAS, the Town and City jointly enter into this Agreement to establish a process for administering the City’s land use controls within the orderly annexation area;

WHEREAS, Minnesota Statutes § 414.0325 provides a procedure for the Town and City to agree on a process of orderly annexation of a designated area;

WHEREAS, the orderly annexation area encompassed by the Agreement is relatively small, consisting of approximately 840 acres, as depicted in **Exhibit A** (“Orderly Annexation Area”) and legally described in **Exhibit B**;

WHEREAS, in June of 2020 a Notice of Intent to include property in an orderly annexation area was published pursuant to the requirements of Minnesota Statutes § 414.0325, Subd. 1b;

WHEREAS, the City and Town have met numerous times since the first joint meeting on July 7, 2020, including open houses for the public to discuss the implications of orderly annexation; and

WHEREAS, the City and Town have agreed to all the terms and conditions for the annexation of the Orderly Annexation Area and the City and Town agree that no alteration of the designated area is appropriate and no consideration by the Chief Administrative Law Judge is necessary. The Chief Administrative Law Judge may review and comment, but shall within thirty (30) days, order the annexation in accordance with the terms of the resolution.

NOW, THEREFORE, for good and valuable consideration, and after a properly conducted joint public hearing by the Town and City, the Town Board of Supervisors of the Town of Gilmanton and the City Council of the City of Foley hereby resolve and agree as follows:

ORDERLY ANNEXATION AGREEMENT

1. **Designation.** The City and Town designate the real property described and depicted in **Exhibit A** (“Orderly Annexation Area”) as subject to orderly annexation pursuant to Minnesota Statute § 414.0325. The Orderly Annexation Area consists of approximately 840 acres, the population in the subject area is less than 75, and the land use type is agricultural.
2. **State Jurisdiction.** The Town and City, by approval and submission of this Agreement to the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings, confers jurisdiction upon the Chief Administrative Law Judge to accomplish orderly annexation in accordance with the terms of this Agreement.
3. **Rural Preservation Until Annexation.** The Town and City have identified the Orderly Annexation Area as areas that are about to become urban or suburban, and because the City anticipates being capable of providing services to this area within a reasonable time, the annexation would be in the best interest of the area if development occurs. In the interim, however, the intent of the Town and City is to maintain and preserve the current rural character of the Orderly Annexation Area until property is annexed into the City. This means allowing agricultural uses and homesteads at a density of four per forty acres and restricting subdivisions for building purposes that result in lots smaller than ten acres. Nothing in this Agreement is intended to impair or restrict the rights of lots of record or legal nonconformities.
4. **Conditions for Annexation.** Property in the Orderly Annexation Area shall be annexed into the City when agreed to by two of the following three parties: the property owner, the City of Foley, or the Town of Gilmanton. The City may also annex property in the Orderly Annexation Area if the property is owned by the City. The City shall initiate this process by providing written notice to the Town and all owners of record of the area proposed to be annexed. The City shall accept written comments from the Town for consideration. After 30 days from the date of the written notice, the City may adopt a resolution completing the annexation.
5. **Property Taxes.** The City and Town agree to the following property tax provisions:
 - a. **Rate.** The tax capacity rate applicable to undeveloped property after annexation shall be increased in substantially equal proportions each year of a six-year period until it equals the tax capacity rate of the City. If any part of the annexed property becomes developed prior to the end of the six-year period, it shall be assessed at the City’s tax rate.
 - b. **Reimbursement.** The City agrees to reimburse the Town an amount equal to seven years of property taxes that would be received from annexed properties based on the rates and values at the time of annexation. Payment will be made in a lump sum within six months after the annexation is effective.
6. **Agreement Term.** Unless the parties have agreed to an extension, this Agreement shall terminate on December 31, 2030.

7. **Exclusive**. It is the intent of the parties that this Agreement sets the exclusive procedures under which annexation from the Town to the City may occur during the term of this Agreement.

JOINT PLANNING AGREEMENT

1. **Applicable Land Use Controls**. Zoning within the Orderly Annexation Area is currently administered by Benton County, utilizing the Benton County Zoning Ordinance. In order to eliminate authority for changes in applicable land use controls from residing with Benton County and outside of the control of either the Town or City, and to eliminate questions of applicability of past revisions of Benton County's Development Code, the Town and City agree to apply the City's zoning ordinance within the Orderly Annexation Area. The goal of land use controls is to preserve the Orderly Annexation Area as agricultural until development is appropriate, so no rezoning of property to a designation other than Agricultural within the Orderly Annexation shall occur prior to annexation.
2. **Wetland and SSTS Remain with Benton County**. All jurisdiction and regulatory authority, including permits, inspection, and enforcement for subsurface sewage treatment systems and wetlands pursuant to the Minnesota Wetlands Conservation Act within the Orderly Annexation Area shall continue to remain with Benton County. Benton County shall collect and retain all fees in connection with subsurface sewage treatment systems and wetlands.
3. **Zoning Designation**. All property within the Orderly Annexation Area is currently zoned Agricultural "A", Business "B-1", Business Enterprise "B-2", or Single-Family Residence "R-2" under Benton County's designation, a copy of which is attached as **Exhibit C**. Upon execution of this Agreement, the property within the Orderly Annexation shall be zoned A-1 Agricultural in accordance with the City's zoning ordinance with the exception that properties zoned B-1 or B-2 shall retain all permitted and conditional uses allowed for such zone under the Benton County's zoning except adult uses, whether or not such uses currently exist on the property. All existing legal uses in operation on March 19, 2021 shall be able to continue to operate as legal non-conformities.
4. **Administration of Land Use Controls**. The Town and City agree that land use controls within the Orderly Annexation Area shall be administered as follows:
 - a. **Joint Planning Board**. Pursuant to Minnesota Statutes §§ 414.0325 and 471.59, the Town and City hereby establish a Joint Planning Board to administer land use controls within the Joint Planning Area. The Joint Planning Board shall consist of two town supervisors and two city council members as appointed by their respective bodies. A Town representative shall serve as chair of the Joint Planning Board and a City representative shall serve as vice chair on even years. A City representative shall serve as chair of the Joint Planning Board and a Town representative shall serve as vice chair on odd years. Meetings shall be called on an as-needed basis when zoning requests are received or when either the City or

Town request a meeting. Every effort will be made to conduct Joint Planning Board meetings at the Town Hall and on the same day as Town Board meetings. The Joint Planning Board shall obtain and maintain a policy of liability coverage for land use claims, the premiums for which shall be paid by the City.

- b. **Staff.** City staff shall, at no cost to the Town, provide all administrative functions for the Joint Planning Board, including the preparation of meeting minutes, serving as zoning administrator, and undertaking enforcement actions. The official City newspaper shall be the official newspaper of the Joint Planning Board for all meeting, public hearing, and other official notices.
 - c. **Land Use Permits and Variances.** Conditional and interim use permits and variance requests shall be submitted on the City's forms and processed by the Joint Planning Board in accordance with the City's zoning ordinance.
 - d. **Solar Project Setbacks.** The City currently has a moratorium on Solar Projects. Rather than extend the moratorium to the Orderly Annexation Area, the Joint Planning Board shall enforce a 500-foot setback from public road rights of way or any public easement containing a water main or sanitary sewer main for all Solar Projects in the Orderly Annexation Area. This setback shall be re-evaluated by the Joint Planning Board once the City adopts permanent Solar Project standards.
 - e. **Ordinance Revisions.** Any revisions to the City's Agriculture District zoning ordinance shall automatically apply to the Orderly Annexation Area unless specifically modified by the Joint Planning Board; this includes any interim ordinances. The City shall provide the Town will notice of any such revisions.
5. **Subdivision of Property.** It is the purpose of this Agreement to regulate subdivisions of land in a manner so as to protect the integrity of the agricultural nature of the Orderly Annexation Area. Such protection requires that any platting or subdivision of property be completed after the property has been annexed to the City, except in those rare circumstances where the Board determines:
- a. the subdivision will not increase the residential density of one single family dwelling per ten acres;
 - b. the subdivision will not precipitate commercial or industrial development; and
 - c. the subdivision of land will not harm the continued vitality of the Orderly Annexation Area as a rural, agricultural area which will not be further developed until such time as is appropriate for annexation.
6. **Further Amendment.** Any amendment to the Orderly Annexation and Joint Planning Agreement shall require a public hearing by the Joint Planning Board and approval by the Gilmanton Town Board and the Foley City Council.

7. **Effective Date.** This Orderly Annexation and Joint Planning Agreement shall be effective upon adoption of the Town Board and City Council and issuance of an Order by the Chief Administrative Law Judge.

Adopted by Town Board of Supervisors for the Town Gilmanton this 17th day of March, 2021.

By: 
Town Board Chair

ATTEST:

By: 
Town Clerk

Adopted by City Council for the City of Foley this 19th day of March, 2021.

By: 
Mayor

ATTEST:

By: 
City Administrator

EXHIBIT A
(Depiction of Orderly Annexation Area)

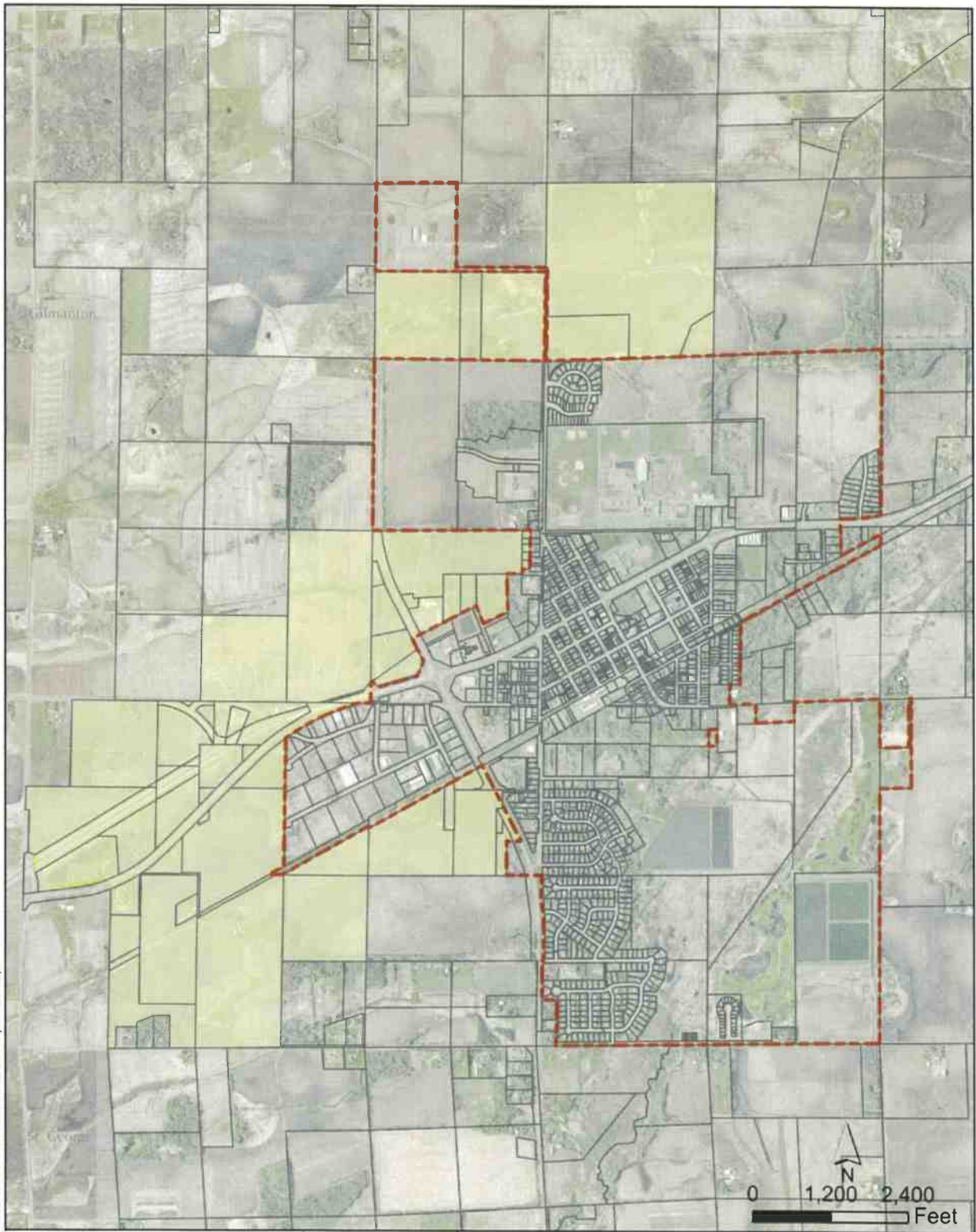


EXHIBIT B**(Description of Orderly Annexation Area)**

<u>PID No.</u>	<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
020031900	Lumir Potuzak & Lorraine Potuzak	13639 78th St NE	Foley	MN	56329
020031700	The Ingodwe Trust Etal C/O Thomas & Gwenn Ruhoff	1196 Mountain Park Dr	Carson City	NV	89706
020031801	Sandra M Luberda & Katherine C Keefe	1251 10th Ave NE Apt 313	Sauk Rapids	MN	56379
020031800	Stephanie Lanners	7502 120th Ave NE	Foley	MN	56329
020032100	Nicole L Beehler & Scott C Beehler	11869 75th St NE	Foley	MN	56329
020032200	Adam E Winkelman & Katie M Winkelman	11809 75th St NE	Foley	MN	56329
020032300	Clean Trust Partners LLC	3515 Cedar Lake Ave	Minneapolis	MN	55416
020038500	Thomas L Henry & Paige Ladue-Henry	6633 115th Ave NE	Foley	MN	56329
020038700	Thomas L Henry & Paige Ladue-Henry	6633 115th Ave NE	Foley	MN	56329
020035400	Karl G Strait Etal	6792 Hwy 25 NE, PO Box 215	Foley	MN	56329
020035900	Rebecca A Howard & Thomas J Howard	681 Norman Ave N	Foley	MN	56329
020035600	Maverick M Wolf	671 Norman Ave N	Foley	MN	56329
020035500	Bruce D Latterell & Roseann Latterell	PO Box 128	Foley	MN	56329
020035700	Tanya M Peterick	651 Norman Ave N	Foley	MN	56329
020035800	Jonathan Brenny & Adrianna Brenny	621 Norman Ave N	Foley	MN	56329
020037500	Maxine I Olson	515 43rd Ave S	St. Cloud	MN	56301
020036000	David Henry Tr & Sharon Henry Tr	PO Box 646	Foley	MN	56329

020036001	David W Henry & Sharon Ann Henry	6776 Highway 25 NE	Foley	MN	56329
020036100	David W Henry & Sharon Ann Henry	6776 Highway 25 NE	Foley	MN	56329
020036101	Karl G Strait & Cecilia M Strait	6792 Hwy 25 NE PO Box 215	Foley	MN	56329
020037100	Michael T Henry	6823 Hwy 25 NE	Foley	MN	56329
020036700	Arnolds North LLC	PO Box 388	Kimball	MN	55353
020036600	John G Herbst & Patricia L Herbst	4260 150th Ave	Clear Lake	MN	55319
020036800	Thomas L Henry & Paige Ladue-Henry	6633 115th Ave NE	Foley	MN	56329
020049700	Troy Johnson Etal C/O Donna Woolard	PO Box 471	Foley	MN	56329
020049702	Todd D Johnson & Tonja L Johnson	8455 Hwy 95 NE	Sauk Rapids	MN	56379
020049707	County of Benton	7752 Hwy 25 NE	Foley	MN	56329
020049701	Vern L Heise & Lavon R Heise	19226 Deerwood Rd	Clearwater	MN	55320
020050100	Clean Trust Partners LLC	10790 65th St NE	Foley	MN	56329
020064400	Jmj Assets LLC	4020 21st Ave S	St. Cloud	MN	56301
020049901	County of Benton	7752 Hwy 25 NE	Foley	MN	56329
020049708	County of Benton	7752 Hwy 25 NE	Foley	MN	56329
020050301	William G Stevens & Sandra K Stevens	10849 Glen St NE	Foley	MN	56329
020049200	David C Novak & Marilyn J Novak	11190 Glen St NE	Foley	MN	56329
020049600	Michael J Notsch	309 Oak Dr	Foley	MN	56329
020049400	Michael R Pierce & Jessica Lynn-Wahl Pierce	5072 95th Ave NE	Foley	MN	56329
020049300	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329

020050000	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329
020049301	Cory Christopherson & Abbigail Morrell	10970 Glen St	Foley	MN	56329
020049500	William G Stevens & Sandra K Stevens	10849 Glen St NE	Foley	MN	56329
020050300	William G Stevens & Sandra K Stevens	10849 Glen St NE	Foley	MN	56329
020050400	Edward F Dumonceaux & Juliene C Dumonceaux	5468 105th Ave NE	Foley	MN	56329
020051215	County of Benton	7752 Hwy 25 NE	Foley	MN	56329
020051000	Leon T Barthelemy & Mary Jo Barthelemy	10800 Glen St NE	Foley	MN	56329
020051001	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329
020051211	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329
020050904	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329
020050903	David A Rothfork	PO Box 224	Foley	MN	56329
020050900	Leroy Charles Herbst Rev Tr & Catherine Marie Herbst Rev Tr	4912 105th Ave NE	Foley	MN	56329
020050700	John E Janku	11125 60th St NE	Foley	MN	56329
020050600	John M Rahm Rev Tr & Lisa M Rahm	1009 Evening Star CT	Sartell	MN	56377
020050500	John M Rahm Rev Tr & Lisa M Rahm	1009 Evening Star CT	Sartell	MN	56377
020051900	Jeremy T Legatt & Ashley Marie Edwards	6151 Highway 25 NE	Foley	MN	56329
020052700	Julie M Fraley & Theodore M Horton	6235 Highway 25 NE	Foley	MN	56329
020051800	David A Rothfork	PO Box 224	Foley	MN	56329
020051810	David A Rothfork	PO Box 224	Foley	MN	56329

020052900	Duane C Foss & Wanda L Foss	6149 Hwy 25 NE PO Box 411	Foley	MN	56329
020053000	David Rothfork	PO Box 224	Foley	MN	56329
020036801	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049706	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049900	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049800	State of Minnesota	NO ADDRESS LISTED			
020049705	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049401	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049502	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020050101	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049704	State of Minnesota Hwy 23 2010 Department of Transportation	7694 Industrial Park Rd	Baxter	MN	56425
020049504	County of Benton	7752 Hwy 25 NE	Foley	MN	56329
020047601	County of Benton	7752 Hwy 25 NE	Foley	MN	56329

EXHIBIT C

(County Zoning of Orderly Annexation Area)

