

[Koochiching County and the City of Ranier hereby jointly agree that the Joint Resolution between Koochiching County and the City of Ranier designating an area for Orderly Annexation and originally adopted by affirmative vote of the Koochiching County Board of Commissioners on July 28, 2009 and the City Council of Ranier on July 20, 2009 be amended and restated as follows:]

**AMENDED AND RESTATED JOINT RESOLUTION AND ANNEXATION
AGREEMENT**

**IN THE MATTER OF THE ORDERLY ANNEXATION BETWEEN THE CITY OF
RANIER AND THE COUNTY OF KOOCHICHING PURSUANT TO MINNESOTA
STATUTES § 414.0325**

WHEREAS, the City of Ranier (the "City") and the County of Koochiching ("the County") designate for orderly annexation, the lands described in Exhibit A hereto within the County of Koochiching, Minnesota (the "Annexation Area"); and

WHEREAS, the City of Ranier and the County of Koochiching are in agreement as to the orderly annexation of the Annexation Area; and both believe it will be to their mutual benefit and to the benefit of their respective residents; and

WHEREAS, Minnesota Statutes § 414.0325 provides a procedure whereby the City and the County may agree on a process of orderly annexation of a designated area; and

WHEREAS, on June 12, 2009 a Notice of Intent, attached hereto as Exhibit G, to include property in an orderly annexation area was published pursuant to the requirements of Minnesota Statutes § 414.0325 Subd. 1b; and

WHEREAS, the City and the County have agreed to all the terms and conditions for the annexation of the Annexation Area as outlined in this Joint Resolution and request an order consistent with this Joint Resolution, ~~but, pursuant to Minn. Stat. § 414.0325 subd 2, wish to have a public hearing and consideration by the Chief Administrative Law Judge of the Office of Administrative Hearings - Municipal Boundary Adjustments (the "Office") within 30 to 60 days of the filing of this Joint Resolution pursuant to Minn. Stat. § 414.09. Pursuant to Minn. Stat. § 414.0325(h), no consideration by the Chief Administrative Law Judge of the Office of Administrative Hearings - Municipal Boundary Adjustments (the "Office") 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 this Joint Resolution.~~

NOW, THEREFORE, BE IT RESOLVED, jointly by the City Council of the City and the Board of Commissioners of the County as follows:

1. **Property.** The Annexation Area is subject to orderly annexation pursuant to Minnesota Statutes § 414.0325, and that the parties hereto designate the Annexation Area for orderly annexation. Both the City and the County agree that no alteration of the stated Annexation Area boundaries is appropriate, and pursuant to Minn. Stat. § 414.0325(g), the Chief Administrative Law Judge may review and comment, but may not alter the boundaries and shall order the annexation in accordance with the terms of this Joint Resolution.

2. **Acreage/Population/Usage.** The Annexation Area consists of approximately 1,142 acres. The population in the Annexation Area is approximately 450 persons. The land type in the Annexation Area is suburban with rural open areas. The area of the City consists of approximately 98 acres. The City's population is approximately 173 persons (2006). The land type in the City is generally suburban and residential, with local businesses generally providing services for those recreating on Rainy Lake.

3. **Jurisdiction.** The County does, upon adoption of this Joint Resolution by the Board of Commissioners, and the City does upon adoption of this Joint Resolution by the City Council, upon acceptance by the Office, confer jurisdiction upon the Chief Administrative Law Judge of the State Office of Administrative Hearings so as to accomplish said orderly annexation in accordance with the terms of this Joint Resolution.

4. **Need.** The Annexation Area is suburban with platted and rural open areas and is unincorporated. Since the City is currently providing services to a portion of the Annexation Area and is capable of providing additional services to the Annexation Area within a reasonable time, the annexation would be in the best interest of the Annexation Area. Further, the annexation will serve to provide water service to part of the Annexation Area, the residents of which have petitioned for the same, namely, the residents of Jameson Addition, French Addition and Three Points North area. Copies of said petitions are attached hereto as Exhibit C. All of the petitioners reside in the annexation area as shown on the map attached hereto as Exhibit B.

5. **Planning and Zoning.**

a. **Ranier Community Plan.** On February 17, 2009 the City Council approved the *Ranier Community Plan*, a copy of which is attached hereto as Exhibit D (the "Plan"). The Plan lays out recommendations for achieving the City's goals, including an implementation checklist that lists the action steps and timeline for each recommendation. Timelines for implementation vary from three months to several years. The implementation checklist follows page 28 of the attached Plan. The planning process utilized in developing the Plan focused on the City and the area in the County surrounding the City, including the areas in which the residents have petitioned the City for annexation and water service. (Exhibit C: Petition), as permitted by Minnesota Statutes § 414.0325 subd. 5, which grants the City planning authority over the Annexation Area. The planning process provided multiple opportunities for the public to provide advice and comments on the City's future development plans (*see* ¶6 below). The structure of the planning process included a review of community assets, vision-setting, and development of recommendations, resulting in the Plan. The City will use the Plan to guide decision making, set goals, and measure progress in the upcoming years.

b. **Zoning.** Recommendation C7 contained in the Plan is consideration by the City of development of a Planning and Zoning Ordinance. Currently, land use and zoning regulation in the City is pursuant to the City's Ordinance No. 64. The County has a Zoning Ordinance which governs the Annexation Area (along with the rest of the County not incorporated into Cities). It should be noted that in adopting a Planning and Zoning Ordinance, 2008 changes to Minnesota Statutes § 462.357, subd. 9 require the consideration of the development controls and objectives set forth in the Plan, among others.

The City and the County agree that the County will retain its zoning control over the Annexation Area until the City has adopted a new City Zoning Ordinance ("City Zoning

Ordinance") as recommended in the Plan. It is the intent of the City that upon adoption of a City Zoning Ordinance, the City Zoning Ordinance will control zoning in the Annexation Area and the City.

6. **Public Process.** This Joint Resolution is the result of substantial work and cooperation by both the City and the County. Significant public input on the annexation was solicited in a series of public meetings and discussion sessions. A chronology for all public meetings and discussion sessions is attached hereto as Exhibit E.

7. **Tax Rate.** The City and the County have estimated tax consequences of the potential annexation on residents of the City and Annexation area. The estimates for various levy amounts are attached hereto as Exhibit F.

8. **Municipal Reimbursement of Assessments and Debt.** Pursuant to Minnesota Statutes § 414.036, the City and County agree that there will be no reimbursement from the City to the County for the Annexation Area. Further, pursuant to Minnesota Statutes § 414.036, with respect to any special assessment assigned by the County to the Annexation Area and any portion of debt incurred by the County prior to the annexation and attributable to the Annexation Area, there are no such special assessments or debt, and therefore, the City will not reimburse the County for the same.

9. **Sanitary Sewer Service.** The City requests, pursuant to Minnesota Statutes § 116A.01 subd. 4, and the parties mutually understand, that the Annexation Area is to continue to receive sanitary sewer service as administered by the North Koochiching County Waste Water Treatment Board and as provided through the North Koochiching Area Sanitary District. The City will continue its current service unaltered, as administered by the North Koochiching County Waster Water Treatment Board and as provided through the North Koochiching Area Sanitary District.

10. **Road Maintenance.** The City and the County have estimated anticipated road maintenance and construction costs resulting from this Joint Resolution. The City and the County agree that the City will contract for snow removal in the Annexation Area under separate contract.

11. **Electric Utility Service.** Electric utility service is currently provided by Minnesota Power in the Annexation Area. The parties understand that Minnesota Power will remain the electrical provider following the proposed annexation. The City and the County hereby waive the electric utility service notice contemplated by Minn. Stat. § 414.0325 Subd. 1a.

~~12. **Public Hearing and Order.** The City and the County agree that upon receipt of this Joint Resolution, passed and adopted by each party, the Chief Administrative Law Judge of the Office of Administrative Hearings, shall set a time and place for a public hearing, as contemplated by Minn. Stat. § 414.0325 subd. 2. Following this hearing, the City and County agree that the Chief Administrative Law Judge shall make an order and set forth the factors which are the basis for the Chief Administrative Law Judge's order, pursuant to Minn. Stat. § 414.0325 subd. 3.~~

~~13.~~ 12. Adopt and Enforce Regulations. The City and County agree to enact, adopt and strictly enforce all such resolutions, ordinances, or regulations, as may be or shall be necessary to give full effect to the stipulations contained in this Joint Resolution.

~~14.~~ 13. Governing Law. This Joint Resolution is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.

~~15.~~ 14. Modification/Amendment. This Joint Resolution shall not be modified, amended, or altered except upon the written joint resolution of the City and the County duly executed and adopted by the City Council and the County Board of Commissioners and filed with the Chief Administrative Law Judge of the Office of Administrative Hearings or his or her successor.

~~16.~~ 15. Term. This Joint Resolution shall be in full force and effect perpetually, unless terminated by mutual written joint resolution of the City and County. This Joint Resolution shall be filed by the City with Chief Administrative Law Judge of the Office of Administrative Hearings after adoption by the parties.

~~17.~~ 16. Severability. In the event that any provision of this Joint Resolution is determined and adjudged to be unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Joint Resolution shall remain in full force and effect, and the parties hereto shall negotiate in good faith and agree to such amendments or modifications of or to this Joint Resolution or other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties hereto. Such actions shall include both the City and County supporting special legislation to reinstate any material provisions of this Joint Resolution which may be declared invalid by Minnesota Courts.

~~18.~~ 17. Headings and Captions. Headings and captions are for convenience only and are not intended to alter any of the provisions of this Joint Resolution.

~~19.~~ 18. Entire Agreement. The terms, covenants, conditions and provisions of this Joint Resolution, including the present and all future exhibits and attachments, shall constitute the entire agreement between the parties hereto, superseding all prior agreements and negotiations. This Joint Resolution shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the County.

~~20.~~ 19. Disputes and Remedies. The City and County agree as follows:

a. *Negotiation.* When a disagreement over the interpretation of any provision of this Joint Resolution shall arise, the City and the County will direct staff members to meet at least one (1) time at a mutually convenient time and place to attempt to resolve the dispute through negotiation.

b. *Arbitration.* When the parties to this Joint Resolution are unable to resolve disputes, claims or counterclaims, or are unable to negotiate an interpretation of any provision of this Joint Resolution, the parties may mutually agree in writing to seek relief by submitting their respective grievances to binding arbitration. Either party may seek relief through initiation of an action in a court of competent jurisdiction. In addition to

the remedies provided for in this Joint Resolution and any other available remedies at law or equity, in the case of a violation, default or breach of any provision of this Joint Resolution, the non-violating, non-defaulting, or non-breaching party may bring an action for specific performance to compel the performance of this Joint Resolution in accordance with its terms.

c. *Attorney's fees to prevailing party.* In the event a court action is brought to enforce any of the terms of this agreement, the prevailing party, if any, shall be entitled to payment of all its court costs, including reasonable attorney's fees.

d. *Jointly drafted Agreement.* In the event of litigation involving this Joint Resolution, the parties shall deem this Joint Resolution to have been jointly drafted by the City and the County.

~~21.~~ 20. **Notice.** Any notices required under the provisions of this Joint Resolution shall be in writing and shall be deemed sufficiently given if delivered in person or sent by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to the City: City of Ranier
Attn: Clerk-Treasurer
2099 Spruce Street
P.O. Box 186
Ranier, MN 56668

If to the County: Koochiching County
Attn: Coordinator
Courthouse
715 4th Street
International Falls, MN 56649

~~22.~~ 21. **Exhibits.** The Exhibits to this Joint Resolution are the following:

Exhibit A: Legal Description;

Exhibit B: Map of Annexation Area;

Exhibit C: Petition for annexation by property owners;

Exhibit D: Ranier Community Plan;

Exhibit E: Chronology;

Exhibit F: Estimates for various levy amounts; and

Exhibit G: Notice of Intent and Affidavit of Publication.

Adopted by affirmative vote of all the members of the Koochiching County Board of Commissioners this 29th day of April, 2010.

COUNTY OF KOOCHICHING

By: Kevin Adee
Kevin Adee, Chairperson

By: Teresa Jaksa
Teresa Jaksa, County Coordinator

CITY OF BANIER

By: Ed Oerichbauer
Ed Oerichbauer, Mayor

By: Kim Nuthak
Kim Nuthak, City Clerk