

Member Anderson introduced the following resolution and moved its adoption:

## RESOLUTION NO. 23-37

### IN THE MATTER OF THE ORDERLY ANNEXATION BETWEEN THE CITY OF FOSSTON AND ROSEBUD TOWNSHIP PURSUANT TO MINNESOTA STATUTES, SECTION 414.0325

**WHEREAS**, on June 27, 2023 and on September 26, 2023, Notices of Intent to include property in an orderly annexation area was published pursuant to the requirements of Minnesota Statutes, Section 414.0325 Subd. 1b.

**WHEREAS**, the City of Fosston and Rosebud Township jointly agree to designate and request the immediate annexation of the following described land located within Rosebud Township to the City of Fosston, County of Polk, State of Minnesota:

#### Parcel No. 61.00017.05:

**Owner:** City of Fosston

#### **Legal Description:**

---Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence west a distance of 233.25 feet along the south line of cemetery property to the west line of the southeast quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence south to the point of beginning.

AND

Commencing at a point on Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence southerly along the east line of the west 233.25 feet to a point 233.25 feet east of the southwest corner of the Southeast Quarter (SE1/4) of Section Three (3); thence west 233.25 feet to said Southwest corner of Section Three (3), thence north 47 feet to the point of beginning; excluding land already in the city.---

(consisting of approximately 2.88 acres)

**Parcel No. 61.00028.00:**

**Owner:** Rosehill Cemetery Association

**Legal Description:**

---That part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Three (3), Township One Hundred Forty-seven (147), North of Range Forty (40), described as follows: Beginning at a point 977 feet north of the quarter post on the south boundary of Sec. 3, Twp. 147, N. Rg. 40, on a line running nearly south and north from said quarter post to the center of the same section, thence south 88 degrees East 233 ¼ feet, thence North 2 degrees East 208 feet; thence North 88 degrees West 233 ¼ feet; thence south 2 degrees West 208 feet to the point of beginning, magnetic declination 11 degrees 12' east. This tract of land is divided into two Blocks named "A" and "B" with a driveway running east and west between the blocks said driveway, being 12 feet wide. It is further subdivided into lots 16 feet by 20 feet and an alley between each lot. 4 ½ feet wide. Another alley 4 ½ feet wide runs along the south, east and north sides, while along the west side runs an alley 7 ¼ feet wide; also that part described as follows: Beginning at a point on the quarter line of said section, 743.56 feet north of the quarter post on the south boundary of said section; thence south 88 degrees East a distance of 233 ¼ feet; thence north 2 degrees East a distance of 233.44 feet to the southeast corner of Rosehill Cemetery; thence North 88 degrees West along the South line of said Cemetery a distance of 233 ¼ feet to the southwest corner of said Cemetery; thence south 2 degrees West along said quarter line 233.44 feet to the point of beginning; AND That part of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40) West, described as follows, to-wit: Beginning at a point 977 feet north of the quarter post on the south boundary of said Section 3 on a line running nearly north and south from said quarter post to the center post of said Section 3, thence S. 88 degrees E. 233 ¼ feet; thence N. 2 degrees E. 208 feet to the place of commencement of the tract herein intended to be described, said last described line hereinafter described as Line "A"; thence at right angles to said Line "A" in an easterly direction a distance of 66 feet; thence at right angles in a southerly direction and parallel to said Line "A" a distance of 412.5 feet; thence at right angles in a westerly direction a distance of 66 feet, more or less, to the easterly line of the existing Rose Hill Cemetery Association property; thence northerly along the easterly line of said Rose Hill Cemetery Association property to the place of commencement EXCEPT the following described tract:

That part of the Southwest Quarter of the Southeast Quarter of Section 3, Township 147 North, Range 40 West of the Fifth Principal Meridian described as follows: Commencing at the southwest corner of said Southwest Quarter of the Southeast Quarter; thence northerly along the west line of said Southwest Quarter of the Southeast Quarter having an

assumed bearing of North 00 degrees 39 minutes 33 seconds West a distance of 743.56 feet to the southwest corner of a tract of land conveyed to the Rosehill Cemetery Association by Warranty Deed Document Number 293685 on file and recorded in the Office of the County Recorder, Polk County, Minnesota dated April 2<sup>nd</sup>, 1948 and the point of beginning; thence continuing northerly along the west line of said conveyed tract of land North 00 degrees 39 minutes 33 seconds West a distance of 126.17 feet; thence South 52 degrees 24 minutes 52 seconds East a distance of 165.84 feet to a line being 25.00 feet northerly of and parallel with the south line of said conveyed tract of land; thence South 89 degrees 25 minutes 15 seconds East along said parallel line a distance of 102.75 feet, more or less to the east line of a tract of land conveyed to the Rosehill Cemetery Association by said Warranty Deed Document Number 293685; thence south 00 degrees 39 minutes 33 seconds East along said east line a distance of 25.00 feet to the southeast corner of said conveyed tract of land; thence North 89 degrees 25 minutes 15 seconds West along the south line of said conveyed tracts of land a distance of 233.25 feet to the point of beginning .---

(consisting of approximately 2.7 acres)

**Parcel No. 61.00037.01:**

**Owner:** City of Fosston

**Legal Description:**

---The Southerly Seven Hundred (700) feet of the Westerly Two Thirty-three and one-fourth (233.25) feet of the Northerly One Thousand Four Hundred Fifty-five (1,455) feet of the West Half of the Southeast Quarter (W1/2 of SE1/4), Section Three (3), Township One Hundred Forty-seven (147), North of Range Forty (40), West of the Fifth Principal Meridian.

AND

The southerly Thirty (30) feet of the Westerly Two Thirty-three and one-fourth (233.25) feet of the Northerly One Thousand Four Hundred Eight-five (1,485) feet of the West Half of the Southeast Quarter (W1/2 of SE1/4), Section Three (3), Township One Hundred Forty-seven (147) North, of Range Forty (40) West of the Fifth Principal Meridian; lying north of the north line of the land conveyed to the Rosehill Cemetery Association by Warranty Deed Document 293685.---

(consisting of approximately 3.75 acres)

**Parcel No. 61.00075.02:**

**Owner:** William J. Malwitz and Phyllis J. Malwitz, as Trustees of the Malwitz Revocable Trust Agreement dated November 23, 2010

**Legal Description:**

---That part of the Northeast Quarter, Section 9, Township 147 North, Range 40 West of the Fifth Principal Meridian, Polk County, Minnesota described as follows: Commencing at the northeast corner of said Northeast Quarter; thence South 88 degrees 54 minutes 59 seconds West, assumed bearing, along the north line of said Northeast Quarter, a distance of 165.00 feet to the point of beginning; thence continuing South 88 degrees 54 minutes 59 seconds West, along the north line of said Northeast Quarter, a distance of 132.00 feet; thence South 00 degrees 50 minutes 01 second East 198.00 feet; thence North 88 degrees 54 minutes 59 seconds East 132.00 feet; thence North 00 degrees 50 minutes 01 second West 198.00 feet, more or less, to the point of beginning, EXCEPT THE FOLLOWING DESCRIBED TRACT: That part of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Nine (9) Township One Hundred Forty-seven (147) North, Range Forty (40) West of the Fifth Principal Meridian, described as follows: Beginning at the corner stake between Sections Three (3) and Nine (9), thence West 8 rods to the point of beginning, thence West 8 rods, South 10 rods, East 8 rods and North 10 rods to the point of beginning.---

(consisting of approximately 0.21 acres)

**Parcel No. 61.00075.03:**

**Owner:** Richard A. Rhodes, Trustee, or his successors in trust, under the Rhodes Revocable Trust dated July 3, 2014

**Legal Description:**

---That part of the Northeast Quarter, Section 9, Township 147 North, Range 40 West of the Fifth Principal Meridian, Polk County, Minnesota described as follows: Beginning at the northeast corner of said Northeast Quarter; thence South 88 degrees 54 minutes 59 seconds West, assumed bearing, along the north line of said Northeast Quarter, a distance of 165.00 feet; thence South 00 degrees 50 minutes 01 second East 198.00 feet; thence North 88 degrees 54 minutes 59 seconds East 165.00 feet, more or less, to the east line of said Northeast Quarter; thence North 00 degrees 50 minutes 01 second West, along the east line of said Northeast Quarter, a distance of 198.00 feet, more or less, to the point of beginning, EXCEPT THE FOLLOWING DESCRIBED TRACT: That part of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Nine (9), Township One Hundred Forty-seven (147) North, Range Forty (40) West of the Fifth Principal Meridian, described as follows: Beginning at the corner stake between Sections Three (3) and Nine (9), thence West 8 rods, South 10 rods, East 8 rods and North 10 rods to the point of beginning, ALSO EXCEPT LAND ALREADY WITHIN THE CITY.---

(consisting of approximately 0.12 acres)

**WHEREAS**, the City of Fosston and Rosebud Township are in agreement as to the orderly annexation of the unincorporated land described.

**WHEREAS**, Minnesota Statutes, Section 414.0325 provides a procedure whereby the City of Fosston and Rosebud Township may agree on a process of orderly annexation of a designated area.

**WHEREAS**, the City of Fosston and Rosebud Township have agreed to all the terms and conditions for the annexation of the above-described lands, and the signatories hereto 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, BE IT RESOLVED**, jointly by the City Council of the City of Fosston and the Township Board of Rosebud Township as follows:

**Section 1. Property.** That the following described land is subject to orderly annexation pursuant to Minnesota Statutes, Section 414.0325, and that the parties hereto designate the area for orderly annexation and agree that the land be immediately annexed:

**Parcel No. 61.00017.05:**

**Owner:** City of Fosston

**Legal Description:**

---Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence west a distance of 233.25 feet along the south line of cemetery property to the west line of the southeast quarter of Section Three (3), Township One Hundred Forty-seven (147) North, Range Forty (40); thence south to the point of beginning.

AND

Commencing at a point on Beginning at a point 47 feet North of the Southwest corner of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40), said point being on the West line of the Southeast Quarter of Section Three (3), Township One Hundred Forty-seven (14 7) North, Range Forty ( 40); thence North, 33 degrees and 30 minutes east, a distance of 405 feet; thence northerly a distance of approximately 366.58 feet, more or less, to the southeast corner of cemetery property; thence southerly along the east line of the west 233.25 feet to a point 233.25 feet east of

the southwest corner of the Southeast Quarter (SE1/4) of Section Three (3); thence west 233.25 feet to said Southwest corner of Section Three (3), thence north 47 feet to the point of beginning; excluding land already in the city.---

(consisting of approximately 2.88 acres)

**Parcel No. 61.00028.00:**

**Owner:** Rosehill Cemetery Association

**Legal Description:**

---That part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Three (3), Township One Hundred Forty-seven (147), North of Range Forty (40), described as follows: Beginning at a point 977 feet north of the quarter post on the south boundary of Sec. 3, Twp. 147, N. Rg. 40, on a line running nearly south and north from said quarter post to the center of the same section, thence south 88 degrees East 233 ¼ feet, thence North 2 degrees East 208 feet; thence North 88 degrees West 233 ¼ feet; thence south 2 degrees West 208 feet to the point of beginning, magnetic declination 11 degrees 12' east. This tract of land is divided into two Blocks named "A" and "B" with a driveway running east and west between the blocks said driveway, being 12 feet wide. It is further subdivided into lots 16 feet by 20 feet and an alley between each lot. 4 ½ feet wide. Another alley 4 ½ feet wide runs along the south, east and north sides, while along the west side runs an alley 7 ¼ feet wide; also that part described as follows: Beginning at a point on the quarter line of said section, 743.56 feet north of the quarter post on the south boundary of said section; thence south 88 degrees East a distance of 233 ¼ feet; thence north 2 degrees East a distance of 233.44 feet to the southeast corner of Rosehill Cemetery; thence North 88 degrees West along the South line of said Cemetery a distance of 233 ¼ feet to the southwest corner of said Cemetery; thence south 2 degrees West along said quarter line 233.44 feet to the point of beginning; AND That part of the Southeast Quarter (SE1/4) of Section Three (3), Township One Hundred Forty-seven (147) North of Range Forty (40) West, described as follows, to-wit: Beginning at a point 977 feet north of the quarter post on the south boundary of said Section 3 on a line running nearly north and south from said quarter post to the center post of said Section 3, thence S. 88 degrees E. 233 ¼ feet; thence N. 2 degrees E. 208 feet to the place of commencement of the tract herein intended to be described, said last described line hereinafter described as Line "A"; thence at right angles to said Line "A" in an easterly direction a distance of 66 feet; thence at right angles in a southerly direction and parallel to said Line "A" a distance of 412.5 feet; thence at right angles in a westerly direction a distance of 66 feet, more or less, to the easterly line of the existing Rose Hill Cemetery Association property; thence northerly along the easterly line of said Rose Hill Cemetery Association property to the place of commencement EXCEPT the following described tract:

That part of the Southwest Quarter of the Southeast Quarter of Section 3, Township 147 North, Range 40 West of the Fifth Principal Meridian

described as follows: Commencing at the southwest corner of said Southwest Quarter of the Southeast Quarter; thence northerly along the west line of said Southwest Quarter of the Southeast Quarter having an assumed bearing of North 00 degrees 39 minutes 33 seconds West a distance of 743.56 feet to the southwest corner of a tract of land conveyed to the Rosehill Cemetery Association by Warranty Deed Document Number 293685 on file and recorded in the Office of the County Recorder, Polk County, Minnesota dated April 2<sup>nd</sup>, 1948 and the point of beginning; thence continuing northerly along the west line of said conveyed tract of land North 00 degrees 39 minutes 33 seconds West a distance of 126.17 feet; thence South 52 degrees 24 minutes 52 seconds East a distance of 165.84 feet to a line being 25.00 feet northerly of and parallel with the south line of said conveyed tract of land; thence South 89 degrees 25 minutes 15 seconds East along said parallel line a distance of 102.75 feet, more or less to the east line of a tract of land conveyed to the Rosehill Cemetery Association by said Warranty Deed Document Number 293685; thence south 00 degrees 39 minutes 33 seconds East along said east line a distance of 25.00 feet to the southeast corner of said conveyed tract of land; thence North 89 degrees 25 minutes 15 seconds West along the south line of said conveyed tracts of land a distance of 233.25 feet to the point of beginning .---

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**Section 2. Acreage/Population/Usage.** That the orderly annexation area consists of approximately 9.66 acres, no one lives in the annexation area, and the land use type is in part residential, cemetery, public, and undeveloped.

**Section 3. Jurisdiction.** That Rosebud Township and the City of Fosston, by submission of this joint resolution to the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings, confers jurisdiction upon the Chief Administrative Law Judge so as to accomplish said orderly annexation in accordance with the terms of this resolution.

**Section 4. No Municipal Reimbursement/Tax Exempt Property.** Rosebud Township and the City of Fosston agree that there shall be no reimbursement. The overwhelming majority of the property in the annexation area is tax exempt, being owned by the City of Fosston and the Rosehill Cemetery Association.

**Section 5. Assessments and Debt.** That pursuant to Minnesota Statutes § 414.036 with respect to any special assessment assigned by the Township to the annexed property and any portion of debt incurred by the Township prior to the annexation and attributable to the property to be annexed, but for which no special assessments are outstanding, for the area legally described there are no special assessments or debt.

**Section 6. Review and Comment.** The City of Fosston and Rosebud Township agree that upon receipt of this resolution, passed and adopted by each party, 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.

**Section 7. Filing and Costs.** The City of Fosston is responsible for filing this resolution with the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings, paying all filing costs and publication costs associated with the orderly annexation, and for providing additional information or corrections as may be needed to complete the requested annexation.

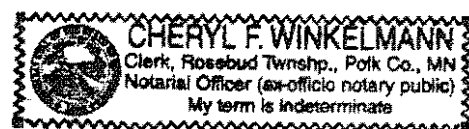
Adopted by affirmative vote of all the members of the Rosebud Township Board of Supervisors this 16<sup>th</sup> day of October 2023.

**ROSEBUD TOWNSHIP**

**ATTEST:**

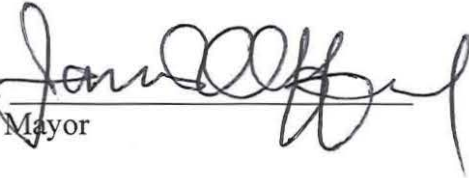
By: Kenny Winkelmann  
Chairperson  
Board of Supervisor

By: Cheryl F. Winkelmann  
Township Clerk



Adopted by affirmative vote of the City Council of Fosston this 10<sup>th</sup> day of October 2023.

**CITY OF FOSSTON**

By:   
Mayor

ATTEST:

By:   
City Administrator

Approved this 10<sup>th</sup> day of October 2023.







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