

VILLAGE OF TOLONO  
CHAMPAIGN COUNTY, ILLINOIS

ORDINANCE NO. 01-2

AN ORDINANCE  
AUTHORIZING EXECUTION OF AN  
ANNEXATION AGREEMENT WITH  
ILLINOIS FOUNDATION SEEDS, INC.

Adopted by the  
Board of Trustees of the Village of Tolono  
This 20th day of February, 2001.

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Published in pamphlet form by authority of the President and the Board of Trustees of the Village of Tolono, Champaign County, Illinois, This 21<sup>ST</sup> day of February, 2001.

**VILLAGE OF TOLONO, ILLINOIS  
ORDINANCE  
AUTHORIZING EXECUTION OF AN  
ANNEXATION AGREEMENT WITH  
ILLINOIS FOUNDATION SEEDS, INC.**

ORDINANCE # 01-2

**WHEREAS**, pursuant to provisions of the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq. and any other applicable statutes, the Board of Trustees of Village of Tolono is authorized to enter into Annexation Agreements and otherwise annex property; and

**WHEREAS**, pursuant to a duly noticed and conducted public hearing and meeting of the Village of Tolono Planning Commission, said Commission reviewed the proposed Annexation Agreement between the Village of Tolono and Illinois Foundation Seeds, Inc. and recommended to the Board of Trustees that the Village enter into and execute same; and

**WHEREAS**, the Board of Trustees, held a noticed public hearing, and at a subsequent meeting this date, meeting this date, reviewed and considered the recommendation of the Planning Commission, public comment, the petitioner's petition, the Annexation Agreement and all other matters, and finds that it is to the advantage and in the best interest of the Village to enter into such agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TOLONO AT A DULY HELD MEETING THIS DATE, AS FOLLOWS:**

1. The Annexation Agreement attached hereto as Exhibit A is approved.
2. The President of the Board of Trustees of the Village of Tolono is hereby directed and authorized to execute said Annexation Agreement for a tract of 8 acres, more or less, with Illinois Foundation Seeds.
3. This ordinance shall be in full force and effect upon passage and shall be published in pamphlet form in accordance with applicable law.


Passed, Approved and Adopted this 20<sup>th</sup> day of February, 2001

Approved



Cecil McCormick, President  
Village Board of Trustees

Attest:



Village Clerk

## CERTIFICATE OF AUTHENTICATION

The undersigned, the the Village Clerk of the Village of Tolono, organized under the laws of the State of Illinois and situated in Champaign County, Illinois, hereby certifies that the attached document entitled "Ordinance Authorizing Execution of An Annexation Agreement with Illinois Foundation Seeds, Inc." is a true and valid copy of such ordinance as duly adopted by the Village of Tolono on the 20<sup>th</sup> day of February, 2001

Dated this 20<sup>th</sup> day of February, 2001.

  
Village Clerk

Exhibit A  
ANNEXATION AGREEMENT

This Agreement, made and entered into this \_\_\_\_ day of February, 2001 by and between the VILLAGE OF TOLONO, ILLINOIS, municipal corporation, by and through its Board of Trustees, being its corporate authorities, hereinafter referred to as "Village", and Illinois Foundation Seeds, Inc., hereinafter referred to as "Owner".

WHEREAS:

A. Owner, is the sole owner of record of the real estate described on the attached Exhibit A, herein referred to as "Tract"; and

B. The Tract consists of approximately eight (8) acres, more or less; and

C. The Tract is currently zoned AG 1 Agriculture and B-1 Business, by the County of Champaign; and

D. It is the desire of the Owner to reflect, in writing, its representations to the Village concerning its agreement to annex said Tract to the Village, subject and pursuant to the terms and conditions hereinafter set forth; and

E. The Village and Owner find it necessary and desirable that the Tract be annexed to the Village with a zoning classification of AG-1 Agricultural, under the terms and provisions of the Tolono Municipal Code, as amended, and subject to the terms and conditions set forth in this Agreement; and

F. Pursuant to the provisions of the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq. (thereon pursuant to notice, all as provided by statute), this Annexation Agreement, in substance and in form, was submitted to said Village and its corporate authorities and a public hearing was held thereon pursuant to notice, all as provided by said statutory provisions; and

G. The Village, through its corporate authorities, after due and careful consideration finds that the annexation of said Tract on the terms and conditions hereinafter set forth will serve to further the growth of the Village and enhance its revenues and serve the best interest of the Village and its citizens.

NOW THEREFORE, in consideration of all of the foregoing and the benefits accruing to the Village and the Owner, by virtue of the execution of this Agreement, the said parties hereby covenant and agree, one with the other, as follows:

Section 1. Definitions. As used in this Agreement, the following words shall have the meanings ascribed to them in this Section:

(a). "Tract" means the real estate affected by this Agreement described on the attached Exhibit A.

(b). "Agreement" means this Annexation Agreement.

(c). "Zoning Ordinance" means the Zoning Provisions of the Tolono Municipal code, as amended or hereafter amended.

**Section 2. Representation and Obligations of Owner.**

(a). Owner represents that it is the sole owner of record of the Tract and said Owner agrees to annex the Tract to the Village subject and pursuant to the provisions of this Agreement.

(b). Owner agrees to cause the Tract to be annexed to the Village filing or causing to be filed with the Clerk of the Village upon approval of this Agreement by Village Corporate authorities pursuant to a written petition concurrently submitted for Village approval signed by the Owner(s) of record of the Tract and any electors residing thereon, said petition requesting annexation of those portions of the Tract which are to be final platted to the Village and being in proper form to allow annexation of the entirety of the Tract pursuant to chapter 24, Section 7-1-1 et seq. of the Illinois Revised Statutes, 1991, as amended.

(c). Owner agrees to accept a zoning classification for the Tract of AG-1 Agricultural, in accordance with the provisions contained within the Village Zoning Ordinance and subject to the terms and conditions set forth in this Agreement.

(d). Owner shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the Tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by the Owner and the Village.

It shall not be a breach of this Agreement for Owner to sell or grant a security interest in the Tract to any third person provided that such sale or grant shall be subject to the provisions of this Agreement.

(e) Owner agrees and hereby stipulates that the Village, by its approval, execution, or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the Tract in the absence of this Agreement.

(f). Owner agrees to not take any action to disconnect or allow the disconnection of the Tract from the Village once it is annexed.

(g). Owner shall notify Village immediately of any suit brought against Owner challenging the terms and conditions of this agreement or any covenant required by this Agreement regarding the future annexation of the Tract. Owner shall allow the Village to direct and control, at the Village's cost, the defense of such suit.

**Section 3. Representations and Obligations of Village.**

(a). Village shall expeditiously annex any portion of the Tract when effectively requested to do so by submission of a legally sufficient petition by Owner by enacting such ordinances as may be necessary and sufficient to legally and validly annex the Tract to the Village.

(b). Upon annexation of the Tract to the Village, Village shall take any action necessary to zone the Tract AG-1 Agricultural in accordance with the provisions contained within the Village Zoning Ordinance subject to the terms and conditions set forth in this agreement.

(c). Village shall take no action nor omit to take action during the term of this Agreement which act or omissions, as applied to the Tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by Owner and Village.

Section 4. Term of this Agreement. The term of this Agreement shall be for a period commencing upon execution by the Village and Owner and in the event the property is not annexed within one (1) year from the year and date first above written this Agreement shall expire. To the extent permitted by law, the Village and Owner agree that in the event the annexation of the Tract on the terms of this Agreement is challenged in any court proceeding, the period of time during which such litigation is pending shall not be included in calculating the said one (1) year term.

Section 5. Covenant Running with Land. The terms of this Agreement constitute a covenant running with the land and are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the Tract and are further expressly made binding upon said Village and the duly elected or appointed successors in office of its corporate authorities.

If Owner shall sell or transfer title to the real estate described on Exhibit "A" of this Agreement to a third-party during the term of this Agreement, it shall become the duty and the obligation of the successor in title to keep and perform all of the covenants, conditions and obligations on the part of the Owner to be made and performed, pursuant to this Agreement.

Section 6. Enforcement. The Owner and Village agree and hereby stipulate that any part of this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement.

Section 7. Contractual Inducement. The undertakings and covenants herein contained to be performed on the part of the Village are the inducements for the Owner to agree to petition for annexation of the Tract to Village and for Village to accept such annexation in accordance with this Agreement.

Section 8. Special Terms. Village and Owner further agree that, following rezoning in accordance with this Agreement, the property will be subject to the following:

(a). Village stipulates and agrees that Owner's existing seed business is permitted within the general meaning of the Village of Tolono Zoning Ordinance as it relates to AG-1 Zoning. Specifically this shall include but not be limited to the sale, processing, packaging and storage of seed, farm chemicals, and farm supplies.

(b). Owner shall be required to provide for a minimum number of parking spaces equivalent to the lesser of thirty (30) spaces or the minimum amount required by ordinance.

(c). Existing and future Grain Bins shall not be considered "buildings" within the meaning of the Zoning Ordinance. For purposes of this Agreement, Grain Bins shall mean grain bins customarily used for grain storage but not for human occupancy.

(d). Height restrictions provided for under the Tolono Zoning Ordinance shall not, in their calculation, include machinery customarily used for the movement of grain.

(e). All buildings existing at the time of this Agreement may be rebuilt utilizing similar footprint, in substantially the similar size, and in the same location notwithstanding setback, spacing and side yard requirements of the Tolono Zoning ordinance. All other new structures shall conform to the Tolono Zoning Ordinance and applicable law. The parties agree that where existing

buildings are rebuilt after the Owner has obtained rezoning or a special permit which substantially changes the nature of the use of the premises, the construction undertaken under the rezoning or said special use permit shall comply with applicable setback, spacing and side yard requirements except as waived under applicable law by the Village.

(f). For a period of 20 years extending from the date of annexation to the Village, or until such time as Owner obtains rezoning or a special use permit which substantially changes the nature of the use of the premises or until the tax year following the year in which sanitary sewer service is made available by the Village, whichever is earlier, the Village agrees to abate its share of real estate taxes applying to the property described on Exhibit A or otherwise refund same to Owner. In no instance shall such abatement be for less than ten (10) years.

(g). The Village agrees that Owner may continue its current business operation in its usual and customary manner and that no Village ordinance regulating dust, noise or burning shall apply to Owner's usual and customary business operation. The within provision shall not apply where Owner substantially changes its current business operation and/or obtains a rezoning or special use permit for the property from its existing use which substantially changes the nature of use of the premises.

Section 9. Severability. If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can give effect without the invalid provision.

Section 10. Recording. The Village and Owner intend that this Agreement shall be recorded in the office of the Champaign County Recorder.

**IN WITNESS WHEREOF**, the Village and Owner have caused this Agreement to be executed in their respective capacities effective as of the day and year first above written.

OWNER:

VILLAGE:

By: \_\_\_\_\_  
Illinois Foundation Seeds, Inc.  
By: Duly Authorized Officer

BY: \_\_\_\_\_  
BOARD PRESIDENT

ATTEST: \_\_\_\_\_  
VILLAGE CLERK

EXHIBIT A

“Legal Description”

Beginning at a point on the North line of Sec. 23, Twp. 18 N. R. 8 E. of the 3<sup>rd</sup> P.M., in Champaign County, Illinois which is 553.61 feet West of the Northeast corner of said Section 23 and on the West right-of-way line of U.S. Route 45; thence Southwesterly along said right-of-way a distance of 420.39 feet; thence West parallel to the said North line a distance of 393.38 feet; thence North perpendicular to said North line a distance of 417.80-feet to said North line; thence East along said North line a distance of 440.32 feet to the point of beginning AND Beginning at the Northeast corner of Sec. 23 Twp. 18 N.R. 8 E. of the 3<sup>rd</sup> P.M., proceed Westerly along the North line of said Section 23 a distance of 993.93 feet to the true point of beginning; thence Southerly on a course perpendicular to said North line of Section 23 a distance of 417.80 feet; thence Westerly parallel to said North line of Section 23 a distance of 417.04 feet; thence Northerly perpendicular to said North line of Section 23 a distance of 417.80 feet to said North line of Section 23; thence Easterly along said North line of Section 23 a distance of 417.04 feet to the true point of beginning, EXCEPT roads, ALSO EXCEPT that part conveyed to State of Illinois Department of Transportation in Document recorded December 7, 1994 in Book 2162 at Page 702 as Document 94 R 30997, in Champaign County, Illinois.



PETITION FOR ANNEXATION

TO: The President and the Board of Trustees of the Village of Tolono, Champaign County, Illinois.

The undersigned Petitioner affirms under oath and to the best of Petitioners' knowledge and information:

1. Petitioner represents the sole Owner of record of property, hereinafter "Tract", legally described on Exhibit A attached hereto and by reference incorporated herein. The Tract comprises approximately eight (8) acres and is bounded by the Village limits to the South.

2. The Permanent Index Number for the property is \_\_\_\_\_.

3. The Tract is not situated within the limits of any municipality but combined is contiguous to the Village of Tolono.

4. There are no electors residing in the Tract but in the alternative if there are, the undersigned represent 100% of the electors.

5. The property is currently zoned agricultural under the applicable Champaign County Zoning Ordinance.

6. Petitioners requests:

A. That Tract be annexed to the Village of Tolono by ordinance of the President and Board of Trustees of the Village of Tolono pursuant to applicable law subject to the terms of an Annexation Agreement between the parties.

B. That, upon annexation, the subject property shall be zoned Agricultural AG-1 pursuant to the Village of Tolono Zoning Ordinance subject to the terms of said Annexation Agreement.

C. That such other action as may be appropriate be taken.

Dated this 19 day of FEB, 2001.

OWNER:  
ILLINOIS FOUNDATION SEEDS, INC.,

By: Dale E. Cochran  
Duly Authorized Officer

The undersigned Notary Public hereby affirms that Dale E. Cochran as duly authorized officer for Illinois Foundation Seeds, Inc. did under oath execute the foregoing as his/her free and voluntary act. This 19 day of FEB, 2001.



Lott H. Thomas  
Notary Public

EXHIBIT A

“Legal Description”

Beginning at a point on the North line of Sec. 23, Twp. 18 N. R. 8 E. of the 3<sup>rd</sup> P.M., in Champaign County, Illinois which is 553.61 feet West of the Northeast corner of said Section 23 and on the West right-of-way line of U.S. Route 45; thence Southwesterly along said right-of-way a distance of 420.39 feet; thence West parallel to the said North line a distance of 393.38 feet; thence North perpendicular to said North line a distance of 417.80 feet to said North line; thence East along said North line a distance of 440.32 feet to the point of beginning AND

Beginning at the Northeast corner of Sec. 23 Twp. 18 N.R. 8 E. of the 3<sup>rd</sup> P.M., proceed Westerly along the North line of said Section 23 a distance of 993.93 feet to the true point of beginning; thence Southerly on a course perpendicular to said North line of Section 23 a distance of 417.80 feet; thence Westerly parallel to said North line of Section 23 a distance of 417.04 feet; thence Northerly perpendicular to said North line of Section 23 a distance of 417.80 feet to said North line of Section 23; thence Easterly along said North line of Section 23 a distance of 417.04 feet to the true point of beginning, EXCEPT roads, ALSO EXCEPT that part conveyed to State of Illinois Department of Transportation in Document recorded December 7, 1994 in Book 2162 at Page 702 as Document 94 R 30997, in Champaign County, Illinois.

## ANNEXATION AGREEMENT

This Agreement, made and entered into this 20 day of February, 2001 by and between the VILLAGE OF TOLONO, ILLINOIS, municipal corporation, by and through its Board of Trustees, being its corporate authorities, hereinafter referred to as "Village", and Illinois Foundation Seeds, Inc., hereinafter referred to as "Owner".

### WHEREAS:

A. Owner, is the sole owner of record of the real estate described on the attached Exhibit A, herein referred to as "Tract"; and

B. The Tract consists of approximately eight (8) acres, more or less; and

C. The Tract is currently zoned AG 1 Agriculture and B-1 Business, by the County of Champaign; and

D. It is the desire of the Owner to reflect, in writing, its representations to the Village concerning its agreement to annex said Tract to the Village, subject and pursuant to the terms and conditions hereinafter set forth; and

E. The Village and Owner find it necessary and desirable that the Tract be annexed to the Village with a zoning classification of AG-1 Agricultural, under the terms and provisions of the Tolono Municipal Code, as amended, and subject to the terms and conditions set forth in this Agreement; and

F. Pursuant to the provisions of the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq. (thereon pursuant to notice, all as provided by statute), this Annexation Agreement, in substance and in form, was submitted to said Village and its corporate authorities and a public hearing was held thereon pursuant to notice, all as provided by said statutory provisions; and

G. The Village, through its corporate authorities, after due and careful consideration finds that the annexation of said Tract on the terms and conditions hereinafter set forth will serve to further the growth of the Village and enhance its revenues and serve the best interest of the Village and its citizens.

NOW THEREFORE, in consideration of all of the foregoing and the benefits accruing to the Village and the Owner, by virtue of the execution of this Agreement, the said parties hereby covenant and agree, one with the other, as follows:

**Section 1. Definitions.** As used in this Agreement, the following words shall have the meanings ascribed to them in this Section:

(a). "Tract" means the real estate affected by this Agreement described on the attached Exhibit A.

(b). "Agreement" means this Annexation Agreement.

(c). "Zoning Ordinance" means the Zoning Provisions of the Tolono Municipal code, as amended or hereafter amended.

**Section 2. Representation and Obligations of Owner.**

(a). Owner represents that it is the sole owner of record of the Tract and said Owner agrees to annex the Tract to the Village subject and pursuant to the provisions of this Agreement.

(b). Owner agrees to cause the Tract to be annexed to the Village filing or causing to be filed with the Clerk of the Village upon approval of this Agreement by Village Corporate authorities pursuant to a written petition concurrently submitted for Village approval signed by the Owner(s) of record of the Tract and any electors residing thereon, said petition requesting annexation of those portions of the Tract which are to be final platted to the Village and being in proper form to allow annexation of the entirety of the Tract pursuant to chapter 24, Section 7-1-1 et seq. of the Illinois Revised Statutes, 1991, as amended.

(c). Owner agrees to accept a zoning classification for the Tract of AG-1 Agricultural, in accordance with the provisions contained within the Village Zoning Ordinance and subject to the terms and conditions set forth in this Agreement.

(d). Owner shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the Tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by the Owner and the Village.

It shall not be a breach of this Agreement for Owner to sell or grant a security interest in the Tract to any third person provided that such sale or grant shall be subject to the provisions of this Agreement.

(e) Owner agrees and hereby stipulates that the Village, by its approval, execution, or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the Tract in the absence of this Agreement.

(f). Owner agrees to not take any action to disconnect or allow the disconnection of the Tract from the Village once it is annexed.

(g). Owner shall notify Village immediately of any suit brought against Owner challenging the terms and conditions of this agreement or any covenant required by this Agreement regarding the future annexation of the Tract. Owner shall allow the Village to direct and control, at the Village's cost, the defense of such suit.

**Section 3. Representations and Obligations of Village.**

(a). Village shall expeditiously annex any portion of the Tract when effectively requested to do so by submission of a legally sufficient petition by Owner by enacting such ordinances as may be necessary and sufficient to legally and validly annex the Tract to the Village.

(b). Upon annexation of the Tract to the Village, Village shall take any action necessary to zone the Tract AG-1 Agricultural in accordance with the provisions contained within the Village Zoning Ordinance subject to the terms and conditions set forth in this agreement.

(c). Village shall take no action nor omit to take action during the term of this Agreement which act or omissions, as applied to the Tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by Owner and Village.

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**Section 5. Covenant Running with Land.** The terms of this Agreement constitute a covenant running with the land and are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the Tract and are further expressly made binding upon said Village and the duly elected or appointed successors in office of its corporate authorities.

If Owner shall sell or transfer title to the real estate described on Exhibit "A" of this Agreement to a third-party during the term of this Agreement, it shall become the duty and the obligation of the successor in title to keep and perform all of the covenants, conditions and obligations on the part of the Owner to be made and performed, pursuant to this Agreement.

**Section 6. Enforcement.** The Owner and Village agree and hereby stipulate that any part of this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement.

**Section 7. Contractual Inducement.** The undertakings and covenants herein contained to be performed on the part of the Village are the inducements for the Owner to agree to petition for annexation of the Tract to Village and for Village to accept such annexation in accordance with this Agreement.

**Section 8. Special Terms.** Village and Owner further agree that, following rezoning in accordance with this Agreement, the property will be subject to the following:

(a). Village stipulates and agrees that Owner's existing seed business is permitted within the general meaning of the Village of Tolono Zoning Ordinance as it relates to AG-1 Zoning. Specifically this shall include but not be limited to the sale, processing, packaging and storage of seed, farm chemicals, and farm supplies.

(b). Owner shall be required to provide for a minimum number of parking spaces equivalent to the lesser of thirty (30) spaces or the minimum amount required by ordinance.

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buildings are rebuilt after the Owner has obtained rezoning or a special permit which substantially changes the nature of the use of the premises, the construction undertaken under the rezoning or said special use permit shall comply with applicable setback, spacing and side yard requirements except as waived under applicable law by the Village.

(f). For a period of 20 years extending from the date of annexation to the Village, or until such time as Owner obtains rezoning or a special use permit which substantially changes the nature of the use of the premises or until the tax year following the year in which sanitary sewer service is made available by the Village, whichever is earlier, the Village agrees to abate its share of real estate taxes applying to the property described on Exhibit A or otherwise refund same to Owner. In no instance shall such abatement be for less than ten (10) years.

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**IN WITNESS WHEREOF**, the Village and Owner have caused this Agreement to be executed in their respective capacities effective as of the day and year first above written.

OWNER:

VILLAGE:

By: \_\_\_\_\_  
Illinois Foundation Seeds, Inc.  
By: Duly Authorized Officer

BY   
BOARD PRESIDENT


ATTEST:   
VILLAGE CLERK

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