

**VILLAGE OF TOLONO, ILLINOIS**

2004- 02

**ORDINANCE ADOPTING  
ANNEXATION AGREEMENT  
“HUBER PROPERTY”**

Adopted by the  
Board of Trustees of the Village of Tolono  
This 20<sup>th</sup> day of April, 2004.

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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 20<sup>th</sup> day of April, 2004.

**VILLAGE OF TOLONO, ILLINOIS**  
**ORDINANCE ADOPTING**  
**ANNEXATION AGREEMENT**  
**HUBER PROPERTY**

2004-\_\_\_\_\_

**WHEREAS:**

A. The Village of Tolono, by its Board of Trustees hereinafter Village, has determined that growth of the Village is in the best interest of its Citizens; and

B. The Village has considered the proposed Annexation Agreement attached hereto and by reference incorporated herein; and

C. The Village Planning Commission has duly met and considered the contemplated Annexation of the subject property; and

D. The annexation contemplated in the proposed Annexation Agreement will involve Agricultural Zoning which involve no change in use or classification when the property is annexed into the Village; and

E. The Village has considered all comments, the recommendations of the Planning Commission, the Agreement and all other matters.

**NOW THEREFORE, B E I T O R D A I N E D B Y T H E V I L L A G E O F T O L O N O B Y I T S  
B O A R D O F T R U S T E E S A T A D U L Y H E L D M E E T I N G H E L D T H I S D A T E A S  
F O L L O W S:**

1. That the Village Board President and Village Clerk are hereby directed and authorized to execute the attached Annexation Agreement on behalf of the Village.

2. This ordinance shall be in full force and effect upon passage and shall be published in pamphlet form in accordance with applicable law.

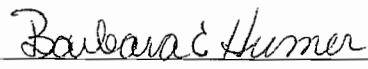
Passed, Approved and Adopted this 20<sup>th</sup> day of April, 2004.

Village of Tolono by  
Its Board of Trustees

By: 

Cecil McCormick, President  
Village Board of Trustees

Attest:

  
James Byers, Village Clerk

## ANNEXATION AGREEMENT

This Agreement, made and entered into this \_\_\_ day of April, 2004 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 Charles W. Huber and Quinn B. Huber, hereinafter referred to as "Owner" and David W. Richmond and Michelle A. Williams hereinafter "Buyer".

### WHEREAS:

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

B. The Tract consists of approximately eighty (80) acres, more or less; and

C. The Tract is currently zoned AG 1 Agriculture, 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. Owner further desires to be given the right to convey a portion of said property comprising 7.045 acres as described on Exhibit B by reference incorporated herein; and

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

G. 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

H. 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.
- (g). Owner shall notify Village immediately of any suit brought against Owner challenging the terms and conditions of this Agreement or any covenant require

(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 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.

(h). Owner shall have the right to convey the parcel described on Exhibit B subject to its inclusion as part of the annexation contemplated for the property described on Exhibit A.

**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.

(d). Village shall consent to Owner's conveyance of the parcel described on Exhibit B subject to its being annexed as part of the larger tract described on Exhibit A.

**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 six (6) months 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 five (5) 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 B 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 pending petition by Owner to rezone the property as follows:

(a) The Village expects that the 73 acre tract, exclusive of the 7.045 acre tract described on Exhibit B will be used for Production of Agricultural Commodities. Any future buildings or structures for example machine sheds or grain bins that require variances to Village of Tolono Ordinances regarding setback, open space, height, etc. will be considered, but in no case shall buildings or structures be permitted that do not conform to requirements of Champaign County Zoning.

(b) For a period of 20 years extending from the date of annexation to the Village, or until such time as Owner obtains 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 but not including the property described on Exhibit B or otherwise refund same to Owner. The property described on Exhibit B shall be subject to Village and other real estate and other taxes. ~~In no instance shall such abatement be for less than ten (10) years.~~

(c) The within agreement is contingent upon Owner closing on the property described on Exhibit B pursuant to a certain real estate contract between owner and Buyer on or before April 20, 2004 2004. Failure to close by said date shall result in a termination of this Agreement without further obligations of the parties unless otherwise agreed, in writing, by the parties. Adoption of this Agreement by Village shall stipulate that any such extension may be entered into upon approval and of sole discretion of the Village Board President and Village attorney for a period not to exceed 60 days.

Owner and Buyer agree to promptly petition for annexation pursuant to this Agreement and shall deliver, at closing, formal executed petitions for such annexation for delivery by their attorneys to Village.

(d) By executing this Agreement, Buyer upon closing upon the purchase of the property described in Exhibit B shall assume all obligations of Owner under this Agreement as it relates to said property.

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:

By: Charles W. Huber  
CHARLES W. HUBER

Quinn B. Huber  
QUINN B. HUBER

VILLAGE:

BY: [Signature]  
BOARD PRESIDENT

ATTEST: Barbara E. Huber  
VILLAGE CLERK

BUYER:

[Signature]  
DAVID W. RICHMOND

Michelle A. Williams  
MICHELLE A. WILLIAMS