

VILLAGE OF TOLONO, ILLINOIS

2011-O- 1

**ORDINANCE ADOPTING
ANNEXATION AGREEMENT
FOR BATES 18.673 ACRE TRACT**

Adopted by the
Board of Trustees of the Village of Tolono
This 15th day of February, 2011.

Published in pamphlet form by authority of the President and the Board of Trustees of the Village of Tolono, Champaign County, Illinois. This 15th day of February, 2011.

VILLAGE OF TOLONO, ILLINOIS
2011-O-_____
ORDINANCE ADOPTING
ANNEXATION AGREEMENT
FOR BATES 18.673 ACRE TRACT

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. Owners/Developers of property have proposed a development and have requested approval of a subdivision plat and an annexation agreement for certain property identified as Exhibit 1 attached hereto and by reference incorporated herein; and

C. The matter has been considered by the Village Planning Commission at a public hearing duly held on January 3, 2011 and the findings of said public hearing are incorporated herein; and

D. The Village desires to approve said replat and enter into the Annexation Agreement contained in Exhibit 2 attached hereto and by reference incorporated herein. The Village Board of Trustees held a public hearing on January 18, 2011 which has been continued until this date.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE OF TOLONO BY ITS BOARD OF TRUSTEES AT A DULY HELD MEETING HELD THIS DATE AS FOLLOWS:

1. That the President of the Board of Trustees and the Village Clerk are hereby directed and authorized to execute the Annexation Agreement to be delivered to the Owners for their use with the Village Attorney to arranged for recording.
2. The Minor Plat for "Bates Subdivision" as prepared by HDC Engineering originally dated June 14, 2010 as submitted to the Tolono Planning Commission is hereby approved and shall be executed by the Village President, Village Engineer and Village Attorney contingent upon:

- a) A covenant being added to the Plat confirming that the owner of Lot 1 shall construct a sidewalk on Lot 1 along Bourne Street upon development to the North and South consistent with the Annexation Agreement.

- b) A covenant being added to the Plat confirming that the owner of Lot 1 will connect to the sanitary sewer together with payment for its proportionate share of improvements when the area North and South of Bates Subdivision is developed.

Adopted this 15th day of February, 2011

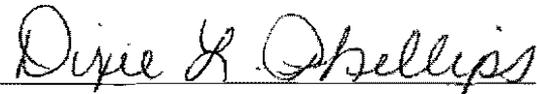
Village of Tolono by
Its Board of Trustees

By: 

Kent Plackett

President, Village Board of Trustees

Attest:



Dixie Phillips

Village Clerk

**AGREEMENT FOR ANNEXATION OF TERRITORY
TO THE VILLAGE OF TOLONO
CHAMPAIGN COUNTY, ILLINOIS**

This Agreement is made by and between the Village of Tolono, Champaign County, Illinois, a municipality in Champaign County, Illinois, hereinafter called "Tolono" or "Village", and Denise Dees and Marie Rasmussen, Co-Successor Executors of the Will of Edward T. Bates, deceased; Denise Dees and Marie Rasmussen, Co-Successor Executors of the Will of Doris A. Bates, deceased; D. D. Bates, Sr., Independent Executor of the Will of Mary L. Bates, deceased; D. D. Bates, Sr., a/k/a Daniel D. Bates; Mary M. Bosch; Brigeetta Sentman; John K. Kirwan; Florian L. Kirwan; Paul J. Kirwan; Matthew F. Kirwan; Gregory M. Kirwan; David P. Kirwan; and Alicia A. Kirwan, together with their Successors and assigns, as owner of subject real estate, hereinafter collectively referred to as "Owners".

WHEREAS:

- A.** Owners are the sole owner of record of the real estate described on the attached Exhibit "A", hereinafter referred to as "property" or "tract", which is 18.673 acres more or less of real estate; and
- B.** Said property is contiguous to the boundaries of the Village, and is located within the 1 ½ mile extraterritorial jurisdiction of the Village, and therefore the Village of Tolono has subdivision authority and annexation and development control; and
- C.** Owners wish to divide the property described on Exhibit A into a platted "Lot 1" and a 17.483 Acre Tract all as described on Exhibit B attached hereto and by reference incorporated herein; and
- D.** Owners intend to obligate themselves and their successors in interest to annex the property comprised of Exhibit B to the Village of Tolono pursuant to the terms of this Agreement immediately upon approval of this Annexation Agreement.

IT IS THEREFORE AGREED AS FOLLOWS:

- 1) Owners agree to cause said property legally described on Exhibit A to be annexed to the Village of Tolono by Petition or other requested action from the Village immediately upon approval of this Agreement.

Execution of this Agreement shall constitute Owners' petition for such annexation under the terms of this Annexation Agreement and Village may proceed to annex same upon approval and signatures.

- 2) The term of this Agreement shall be for a period commencing upon execution by the Village and Owner expiring 20 years from the year and date first above written unless said agreement may lawfully extend beyond 20 years in which event the agreement shall be in effect indefinitely. 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 calculation the said 20-year term.
- 3) This agreement shall run with the land and be binding upon any subsequent owners of the affected real estate or any portion thereof.
- 4) Owners of their respective parcels also agree that within ninety (90) days of commencement of any development of the area adjacent to Bates Subdivision lying to its North or South, Owners shall:
 - a) Construct a sidewalk along Bourne Street adjacent to their respective parcels consistent with Village direction.
 - b) Connect to the Village Sanitary Sewer together with payment for the proportionate share of improvements. All connections shall be at the expense of the Owners, or their successors, and shall be in accordance with applicable laws, ordinances, regulations and requirements. The Owners or their successors also agree to pay their proportionate share of the cost of engineering, construction and/or right of way acquisition related to the connection of public water service and sanitary sewer service to the tracts.
- 5) Public Improvements
 - A) Any subsequent subdivision of subject property within 1 ½ mile of the Village of Tolono limits will be subject to the provisions of the Village of Tolono, Illinois, Subdivision Ordinance as amended from time to time, and Owners acknowledge that such compliance with said ordinance is required.

B) Further, it is the parties' understanding and agreement that under Tolono's ordinances, Owners are legally obligated to pay for certain sidewalk and public road improvements, and that if Tolono's ordinance is then applicable, Owners will comply with such obligations.

- 6) The parties also agree that upon the annexation of subject property, the zoning classification shall be R-2 Residential for both Lot 1 and for the remainder of the property comprising the 17.483 acres.
- 7) For purposes of approving said Minor Plat, the Village agrees to waive Section 4.17.3E (SWCD) and 4.17.3F (Endangered Species) of the Village Subdivision Ordinance. There shall be no such waiver for any subsequent development of the property.
- 8) The Village agrees to abate real estate taxes for a period of 10 years for the 17.483 Acre Tract so long as its use has not changed. In the event of a change of use or development of said Lot 2, there shall be no such abatement. There will be no such abatement for Lot 1. Any abatement shall commence for the 2011, payable 2012, real estate taxes.
- 9) The parties agree that the within Agreement shall be recorded with the Champaign County Recorder and that its contents shall constitute an agreement which shall inure to subsequent owners of record and other parties of interest.
- 10) Owners warrant that they are the sole duly authorized owners of record of both parcels.

Dated at Tolono, Illinois, this 15th day of February, 2011.

VILLAGE:

Village of Tolono

By: _____
Kent Plackett, Village President

Attest:

By: _____
Dixie Phillips, Village Clerk

OWNERS:

Denise Dees, as Co-Executor of the Will of
Edward T. Bates, deceased

Marie Rasmussen, as Co-Executor of the Will of
Edward T. Bates, deceased

Denise Dees, as Co-Executor of the Will of
Doris A. Bates, deceased

Marie Rasmussen, as Co-Executor of the Will of
Doris A. Bates, deceased

D. D. Bates, Sr., as Independent Executor
of the Will of Mary L. Bates, deceased

D. D. Bates, Sr., a/k/a Daniel D. Bates

Mary M. Bosch

Brigetta Sentman

John K. Kirwan

Florian L. Kirwan

Paul J. Kirwan

Matthew F. Kirwan

Gregory M. Kirwan

David P. Kirwan

Alicia A. Kirwan

EXHIBIT A

That part of the Northeast Quarter of the Northeast Quarter of Section 35, Township 18 North, Range 8 East of the Third Principal Meridian, in Champaign County, Illinois, described as follows:

Commencing at the center of the Public Highway 2.96 chains Southwesterly along the center line of said Highway from the stone located in the center of said Highway approximately 96 links West of the Southwest corner of the Catholic Church referred to in a Deed from John Louks and Sarah B. Louks to John L. Spaulding; said point also being the Southwest corner of Southview I Subdivision, Champaign County, Illinois, as recorded in Plat Book "CC" at page 229 in the Champaign County Recorder's Office, proceed South 05°18'21" West along said center of the Public Highway 581.73 feet to the true point of beginning; thence South 05°50'32" West along said center of the Public Highway, 187.47 feet; thence South 88°12'50" East, 278.62 feet; thence North 03°48'47" East, 179.42 feet; thence North 86°51'33" West, 241.84 feet; thence North 84°25'33" West, 30.00 feet to the true point of beginning,

to be known as:

Lot 1 of Minor Plat Bates Subdivision as per plat recorded as document ~, in the Champaign County Recorder's Office, situated in Champaign County, Illinois.

AND that property described on the page that follows:

That part of the Northeast Quarter of the Northeast Quarter of Section 35, Township 18 North, Range 8 East of the Third Principal Meridian, in Champaign County, Illinois, described as follows:

Beginning at a point 4.42 chains South of the Northeast corner of Section 35, Township 18 North, Range 8 East of the Third Principal Meridian, thence West 14.18 chains to a stone which has been set in the center of the Public Highway 2.96 chains Southwesterly along the center line of said Highway from the stone located in the center of said Highway approximately 96 links West of the Southwest corner of the Catholic Church referred to in a Deed from John Louks and Sarah B. Louks to John L. Spaulding; thence Southwesterly along the center of said Public Highway 13.49 chains; thence East 15.54 chains to the Section line; thence North along the Section line to the place of beginning, in Champaign County, Illinois;

EXCEPT that parcel described as: Commencing at the Northeast corner of the Northeast Quarter of Section 35, Township 18 North, Range 8 East of the Third Principal Meridian, in Champaign County, Illinois, proceed South $00^{\circ}37'53''$ East along the East line of said Northeast Quarter, 291.72 feet (4.42 chains) to the true point of beginning; thence continue South $00^{\circ}37'53''$ East along said East line, 144.26 feet; thence North $89^{\circ}19'34''$ West, 303.28 feet; thence North $00^{\circ}22'50''$ East, 144.26 feet to the South line of a tract of land owned by Saint Patrick Church; thence South $89^{\circ}19'10''$ East along said South line, 300.73 feet to the true point of beginning, in Champaign County, Illinois.

EXHIBIT B



MINOR PLAT
BATES SUBDIVISION
CHAMPAIGN COUNTY, ILLINOIS
A PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP
18 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN

SPACE RESERVED FOR
RECORDER'S STAMP

LEGEND

- Boundary Line
- - - - Easement Line
- Setback Line
- ON — Overhead Utility Line
- Found Iron Rod or Pipe Monument
- o Found Wing Nail
- 100' Measured Dimension
- (100') Recorded Dimension

SURVEYOR'S NOTES

1. Field work was completed for this project on June 8, 2010.
2. This professional service conforms to the current Illinois Minimum Standards for a Boundary Survey.
3. The subdivision is located within the corporate limits of the Village of Tolono, Illinois.
4. The subdivision is in the boundaries of the Paxton Slough Special Drainage District.
5. Current zoning for this subdivision is Village of Tolono R-1.
6. Building setback lines for Tolono R-1 are as follows:
Front Yard = 30 feet
Side Yard = 10 feet minimum (20 feet aggregate for 2 lots)
Rear Yard = 30 feet (10 feet for accessory structure)
7. This tract of land is located in Zone "C" on the Special Flood Hazard Area Identified for the County of Champaign, Illinois, by the Federal Emergency Management Agency on the Flood Insurance Rate Map, Panel Number 170894 0275 B, dated March 1, 1994.
8. Tract does lie within 500 feet of a point on a water course draining over 640 acres.
9. Bearing as on Illinois State Plane Coordinates, East Zone System.

STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } S.S.

SURVEYOR'S CERTIFICATE

I, David P. Philippe, being Illinois Professional Land Surveyor Number 2581, do hereby certify that at the request of Toll Thomas, agent for the Mary L. Bolan Estate, I have caused a survey to be made and a plat to be drawn under my direct supervision of the following described tract of land:

That part of the Northeast Quarter of the Northeast Quarter of Section 35, Township 18 North, Range 8 East of the Third Principal Meridian, in Champaign County, Illinois, described as follows:

Commencing on the center of the Public Highway 2.06 chains Southwesterly along the center line of said Highway from the stone located in the center of said Highway approximately 93 feet West of the Southwest corner of the Catholic Church referred to in a Deed from John Locke and Sarah R. Locke to John L. Spaulding, said point also being the Southwest corner of Southeast 1 Subdivision, Champaign County, Illinois, as recorded in Plat Book "C", page 243 in the Champaign County Recorder's Office, proceed South 02° 10' 21" West along said center of the Public Highway, 391.73 feet to the true point of beginning; thence South 02° 50' 34" West along said center of the Public Highway, 187.47 feet; thence South 88° 12' 50" East, 276.82 feet; thence North 03° 48' 42" East, 179.42 feet; thence North 88° 51' 33" West, 241.84 feet; thence North 84° 25' 33" West, 30.00 feet to the true point of beginning.

The tract of land encompasses 1.154 acres, more or less.

For said owner who desires to facilitate the sale of said land by subdividing it into lots, street right-of-ways and other areas into which said lands have been so subdivided; and have numbered the lots which numbers are shown in larger size on said plat; and have noted the precise dimensions in feet and hundredths of feet of said lots, streets, and other areas; and that reference has been made upon said plat to permanent survey monuments and have placed survey monuments as shown on the plat and the Subdivision which is known as "Bates Subdivision, Champaign County, Illinois."

Signed and sealed on this ____ day of June, 2010.

David P. Philippe
Illinois Professional Land Surveyor No. 2581
License Expires 11/30/13



APPROVED:

Approval of this Minor Subdivision Final Plat is hereby granted under the authority of the President and Board of Trustees of the Village of Tolono. This Plat shall be recorded with the Recorder of Deeds of Champaign County, Illinois, within one (1) year of this date, otherwise this Plat shall become void.

President, Tolono Board of Trustees: _____ Date _____

Tolono Village Attorney: _____ Date _____

Tolono Village Engineer: _____ Date _____

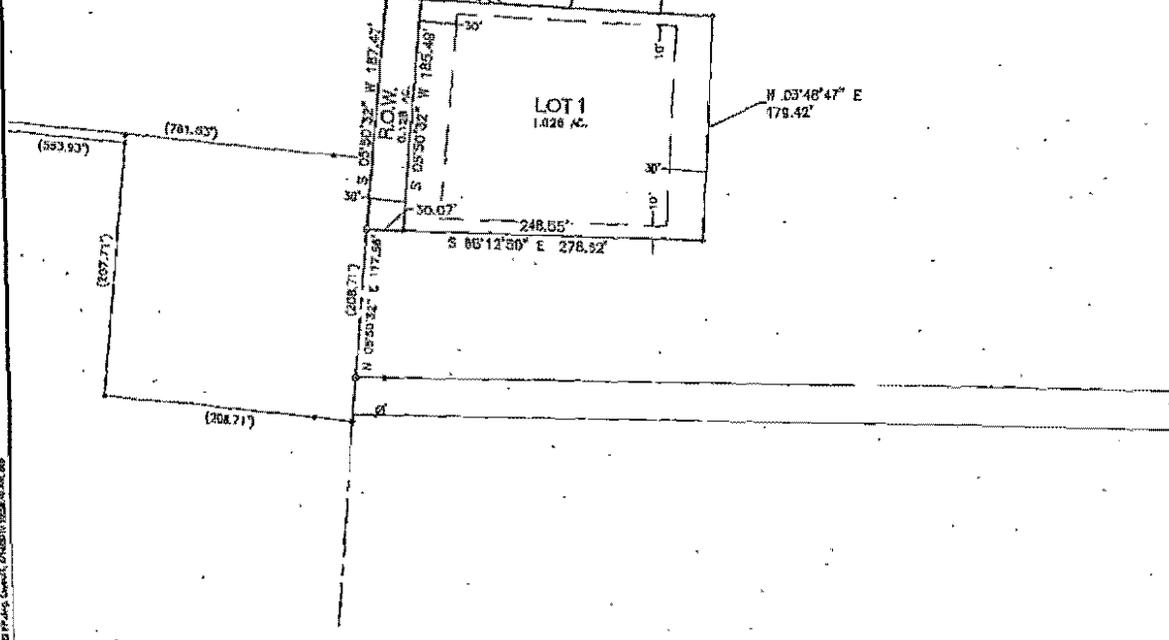
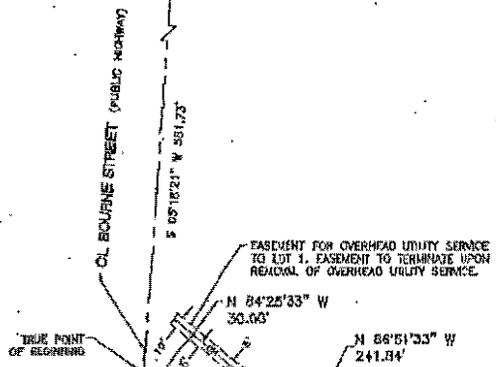
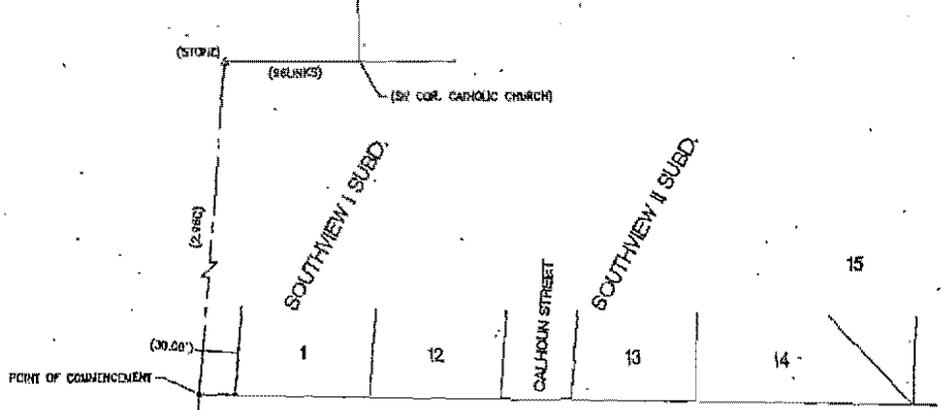
DRAINAGE STATEMENT

To the best of our knowledge and belief, professions have been made for the collection and diversion of surface waters from public areas, or drains which the subdivider has the right to use, and that such surface waters are planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of Bates Subdivision, Champaign County, Illinois.

Clod M. Osterbur
I.L.P.E. No. 59195
License Expires 11/30/11



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| | 201 West Spring Road, Suite 300, Champaign, Illinois 61821-8140 Phone No. 217-252-6376 | Revision Date: Revision Date: Revision Date: Issue Date: 06/14/10 |
| | Professional Design Firm License No. 181-003223 Professional License Expires 1/30/2011 Plat Book 2124 Project Number 10123 | Drawn by: BDB |



MADE BY INSTRUMENT 14-445, SUBJECT, UNIVERSITY RECORDS 44-14-140