
This Space for Recorder of Deeds

Ordinance No. 99-58

**AN ORDINANCE APPROVING AN ANNEXATION AGREEMENT WITH
PHOENIX VENTURES, LLC**

*BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE
VILLAGE OF CHATHAM, AS FOLLOWS:*

SECTION 1: The Annexation Agreement attached hereto by and between the Village of Chatham, Illinois and Phoenix Ventures, LLC, is hereby approved.

SECTION 2: The President is directed to execute said agreement on behalf of the Village, and the proper officers of the Village are authorized and directed to carry out said annexation agreement according to its terms. The Clerk shall record the signed original of the signed agreement and its accompanying exhibits, along with a certified copy of this ordinance, with the Recorder of Deeds of Sangamon County.

SECTION 3: This Ordinance is effective immediately.

PASSED this 27 day of NOVEMBER, 1999.

Linda Koester
VILLAGE PRESIDENT

Attest: Pat Schan
Village Clerk

AYES: 5

NAYS: 0

PASSED: 11-23-99

APPROVED: _____

ABSENT: 1

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

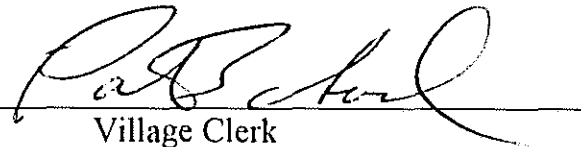
I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 99-58, adopted by the President and Board of Trustees of said Village on the 23 day of NOVEMBER, 1999, said Ordinance being entitled:

**AN ORDINANCE APPROVING AN ANNEXATION AGREEMENT WITH
PHOENIX VENTURES, LLC**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 23 day of NOVEMBER, 1999.


Village Clerk

This Space for Recorder

ANNEXATION AGREEMENT

THIS AGREEMENT is made by Phoenix Ventures, LLC, an Illinois limited liability company ("Phoenix"), and the Village of Chatham, Illinois (the "Village"), an Illinois municipal corporation, all of Sangamon County, Illinois, and is effective this 23 day of NOVEMBER, 1999.

WHEREAS, Ball-Chatham Community Unit School District No. 5 is the record owner of certain real estate comprising 80 acres, more or less, and legally described and depicted on a Plat of Annexation attached hereto as Exhibit A ("the District Property");

WHEREAS, the District proposes to annex the District Property to the Village pursuant to an annexation agreement (the "District Annexation Agreement");

WHEREAS, District proposes to develop the District Property initially as a high school, with potential future development of additional schools on the District Property;

WHEREAS, Phoenix is the record owner of certain real estate comprising 20 acres, more or less, and legally described and depicted on a Plat of Annexation attached hereto as Exhibit B ("the Phoenix Property");

WHEREAS, the Phoenix Property is located in unincorporated Sangamon County, Illinois, and is contiguous to the corporate limits of the Village;

WHEREAS, Phoenix wishes to annex the Phoenix Property to the Village, together with all public roadways adjacent thereto or contained therein and not within the corporate limits of any other municipality;

WHEREAS, Phoenix proposes to develop the Phoenix Property as a subdivision; specifically, as additional plats to an existing subdivision, Oakbrook Estates Subdivision;

WHEREAS, Phoenix is the successor in interest to the State Bank of Auburn, as Trustee of Trust 94-195, pursuant to an annexation agreement with the Village of Chatham which was recorded with the Recorder of Deeds of Sangamon County on May 31, 1995; that Agreement (the "First Oakbrook Estates Subdivision Agreement") pertained to the development of Oakbrook Subdivision, of which 7 plats have been developed and approximately 140 acres remain undeveloped;

WHEREAS, Phoenix and the District have entered into a contract detailing their mutual responsibilities with respect to development of the District Property and the Phoenix Property; a copy of that contract (the "District-Phoenix Contract") is attached hereto as Exhibit "C" and incorporated by reference; and the District-Phoenix Contract names the Village as a third party beneficiary;

WHEREAS, Phoenix and the District have developed a plan for the orderly and efficient development of the District Property and the Phoenix Property which will require the assistance of the Village and certain changes to the First Oakbrook Estates Subdivision

Agreement; a preliminary plan for the Phoenix Property, the District Property, and adjoining areas of Oakbrook Estates Subdivision which were part of the First Oakbrook Estates Subdivision Agreement is attached hereto as Exhibit "D" (the "Preliminary Plan");

WHEREAS, Phoenix has requested zoning of areas in the Phoenix Property upon their annexation to the Village, and have requested rezoning of certain areas already annexed and subject to the First Oakbrook Estates Subdivision Agreement, as R-1, R-2, R-3 and B-1, all as depicted on a zoning plat, Exhibit "E" hereto, with a variance as to the setbacks on certain corner lots as depicted on a corner lot setback plat, Exhibit "F" hereto;

WHEREAS, the Village is willing to grant certain variances of the requirements of its Subdivision Ordinance, in order to accommodate Phoenix and the District, and to grant the specific zoning desired by the parties;

WHEREAS, Phoenix has petitioned to annex the Phoenix Property conditional upon this agreement; its petition is attached hereto as Exhibit G;

WHEREAS, and the subdivision and zoning provisions and variances provided for herein have been reviewed by the Planning Commission of the Village after a public hearing pursuant to notice as required by statute, and the corporate authorities of the Village have conducted a public hearing regarding this Agreement pursuant to notice as required by statute;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The corporate authorities of the Village shall adopt an ordinance annexing the Phoenix Property within 30 days of the execution of this Agreement.

2. Simultaneously with annexation of the Phoenix Property, the corporate authorities of the Village shall adopt an ordinance zoning the Phoenix Property and adjacent areas of Oakbrook Estates Subdivision as R-1, R-2, R-3 and B-1, all as set forth in the zoning plat, Exhibit E to this Agreement, with side lot variances as set forth in Exhibit F to this Agreement.

3. Within 30 days of approval of the Ordinance authorizing execution of this Agreement, Phoenix shall pay the Village \$54,000 for the cost of installing a water main from Park Avenue to Gordon Drive on Plummer Boulevard. Phoenix agrees to grant whatever easements the Village may require to accomplish this installation. Phoenix shall have no further financial or other obligations with respect to this water main.

4. Within 30 days of approval of the Ordinance authorizing execution of this Agreement, Phoenix shall pay the Village \$100,000 for the construction of a road base on Plummer Boulevard from the west property line of the District to Gordon Drive. Phoenix shall have no further financial or other commitment for the construction of this section of Plummer Boulevard.

5. At such time as a final plat is recorded which includes land which is contiguous thereto, Phoenix shall dedicate property as depicted in Exhibit "H" to the Village for use as Oakbrook Community Park, bike trail, together with any easements necessary for access thereto. Village shall consult with Phoenix regarding the development of Oakbrook Community Park.

6. Phoenix shall provide storm sewers within the Phoenix Property and other

areas subject to the First Oakbrook Estates Subdivision Agreement in accordance with the Village Subdivision Ordinance, but may provide part of the required storm water detention for Oakbrook Estates Subdivision off-site, in an area located on the District Property and marked "Storm water Detention Area" on the Preliminary Plan. The Storm water Detention Area shall be sized to detain storm water flows from the School Property in addition to the flows from Oakbrook Estates subdivision, and shall be constructed by District pursuant to the District Annexation Agreement. The District has agreed in the District Annexation Agreement that it shall have all maintenance responsibilities with respect to the Storm water Detention Area in the future.

7. Phoenix shall construct a road base on the section of Plummer Boulevard from the west property line of the District Property to the termination point of the Plummer Boulevard separated grade railroad crossing project, which is approximately at Park Avenue, to be ready for traffic by October 1, 2000, or within 30 days of completion by the Village of the roadway construction as set forth in paragraph 4 of the District Annexation Agreement, whichever is later. The road base shall be constructed of not less than 8 inches of aggregate, on a Geo-textile fabric, on lime stabilized soil. Phoenix shall construct this section of Plummer Boulevard to subdivision specifications at the time that the adjacent subdivision plats are developed.

8. The subdivision requirements for sidewalks on the north side of Plummer Boulevard are hereby waived. Sidewalks on the south side of Plummer Boulevard shall be the responsibility of Phoenix.

9. The Village shall by ordinance approve the Preliminary Plan attached hereto as Exhibit D; the Preliminary Plan shall serve both as a preliminary plan for the several final plats of Oakbrook Estates Subdivision, and also as the site plan for the District Property under the large scale development provisions of the Subdivision Ordinance.

10. The First Oakbrook Estates Subdivision Agreement is hereby deemed amended to the extent necessary to conform it to this Agreement; in the event of any conflict between this Agreement and the First Oakbrook Subdivision Agreement, this Agreement shall control. In addition, the provision in paragraph 4 of that Agreement limiting the number of final plats for Oakbrook Subdivision to twelve is hereby deleted.

11. Nothing in this Agreement shall be construed as limiting the Village's right to adopt or amend ordinances of general applicability, including the zoning and subdivision ordinances, or the applicability of such ordinances to the District Property or the Phoenix Property. However, in the event of a conflict between the Village ordinances and this Agreement, this Agreement shall prevail. Any rezoning of the District Property, the Phoenix Property, or land subject to the First Oakbrook Estates Subdivision Agreement, or any portion thereof after the initial zoning pursuant to this Agreement will not require amendment of this Agreement and will be done pursuant to the normal procedures in the Village Zoning Ordinance.

12. This Agreement is binding upon the parties hereto, their respective heirs, executors, personal representatives, corporate authorities, administrators, successors and assigns. This Agreement and all provisions herein shall be a covenant running with the land

legally described herein. This Agreement shall be effective for twenty years from the date of execution.

13. This Agreement shall only be amended by a writing, signed by the parties and approved by the Village by ordinance and by resolution of the corporate authorities of the District.

14. The Village shall enact such ordinances, execute such documents, and issue such permits and certificates as shall be required to effectuate this Agreement and any ordinance adopting it.

15. Phoenix shall, at its expense, record this Agreement with the Sangamon County Recorder of Deeds within 30 days of its execution.

16. If the performance of any covenant to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party, the time for such performance shall be extended by the amount of time of such delay.

17. All notices and other communications required under this Agreement shall be in writing and delivered either personally or by depositing the same, postage pre-paid, to the parties at the following addresses (or such other addresses as may be designated by the parties from time to time):

- A. Phoenix Ventures LLC
c/o Mr. Gregory P. Sgro
Sgro, Hanrahan & Blue, LLP
1119 South 6th Street
Springfield IL 62703

B. Village of Chatham, Illinois
Attention: Village Administrator
117 East Mulberry Street
Chatham, IL 62629

Copy to Village Attorney

18. No party to this agreement shall bring any action for a breach of this Agreement unless that party has given written notice of the breach to the breaching party, and the breaching party has not cured the breach within 30 days of receipt thereof. The sole remedies for breach of this agreement shall be an action for specific performance, mandamus, injunction, or other equitable relief; in no event shall any party be awarded damages of any sort, or attorneys fees, expenses, or costs, resulting from any other party's breach of this Agreement.

19. The failure of the parties to insist upon the strict and prompt performance of the terms, covenants, agreement, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

20. If the performance of any covenant to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include acts of God, war, acts of civil disobedience, the inability of a contractor to complete the Plummer Boulevard separated grade railroad crossing project

in a timely fashion, strikes or similar acts), the time for such performance shall be extended by the amount of time of such delay.

21. Without the prior written consent of Phoenix, Chatham shall not, with respect to any of the Phoenix Property for the initial 5 years of this Agreement and thereafter with respect to any portion of the Phoenix Property until it has been part of an approved final plat for 3 years:

A. Levy against any real or personal property within the Phoenix Property, any special assessment of special tax for the cost of any improvements in or for the benefit of the Phoenix Property; or

B. Undertake any local improvements in, on or for the benefit of the Real Estate pursuant to the imposition of a special assessment or special tax against the Phoenix Property, or any portion thereof; or

C. Levy or impose additional taxes on the Phoenix Property, in any manner provided by law for the provision of special services to the Phoenix Property or to an area in which the Phoenix Property is located or for the payment of debt incurred in order to provide such special services. Nothing herein shall prevent Chatham from levying or imposing additional taxes upon the Phoenix Property in the manner provided by law, which are applicable to and apply equally to all other properties within the Village.

22. Default by Phoenix under the Phoenix-District Contract shall be a default under this Agreement. This Agreement, the Phoenix-District Contract and the District Annexation Agreement shall be construed together as constituting a single transaction.

23. Phoenix shall cause the prevailing wage as defined in the current Village Prevailing Wage Ordinance to be paid with respect to all contracts which will be paid in whole or in part with Village, District or grant funds.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 23 day of NOVEMBER, 1999.

VILLAGE OF CHATHAM, ILLINOIS

By: Linda Keester
Village President

Attest: Pat Schaefer
Village Clerk

Phoenix Ventures, LLC

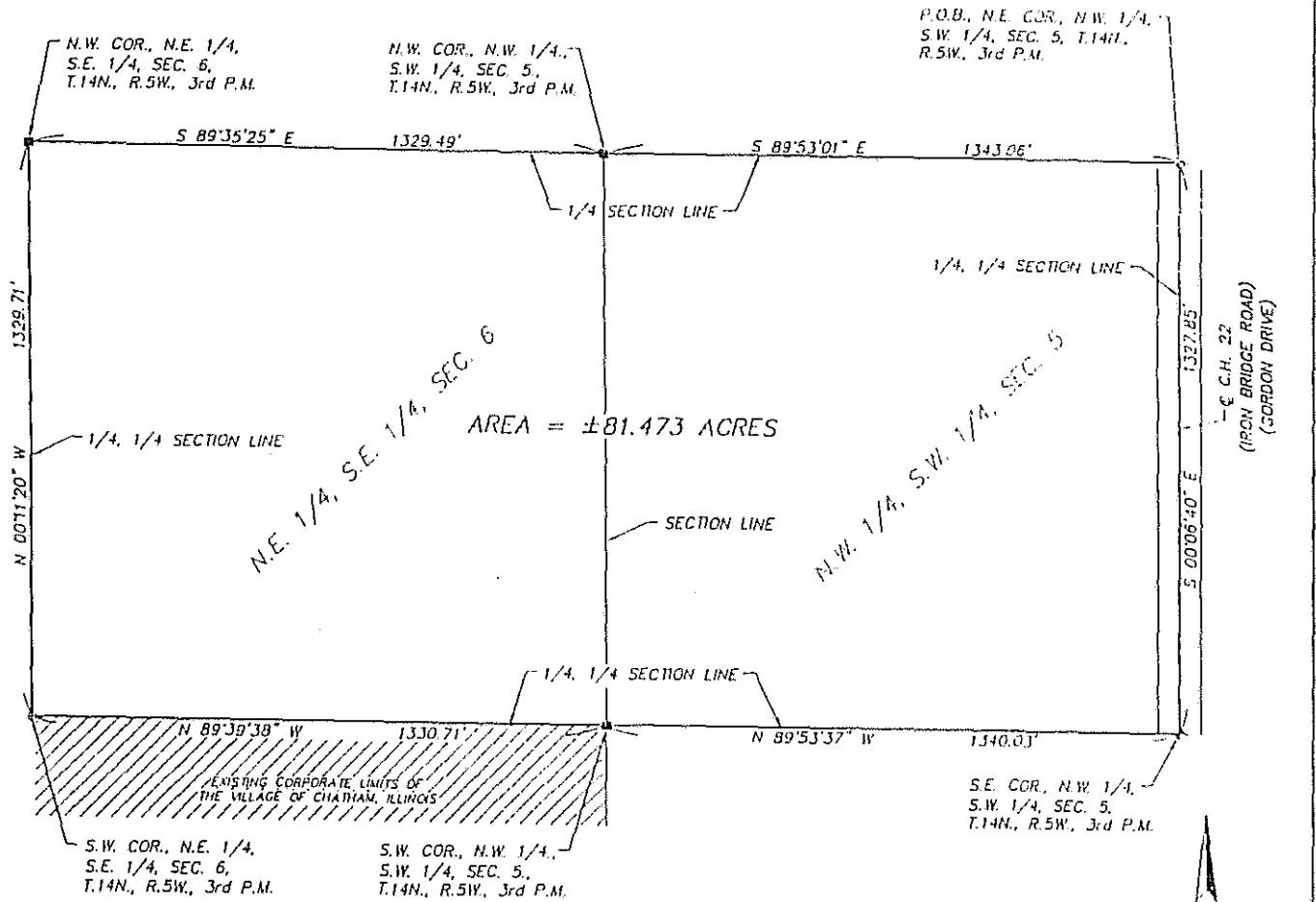
By: _____
Its manager

Attest: _____
Its Secretary

PLAT OF ANNEXATION
TO THE VILLAGE OF CHATHAM, ILLINOIS

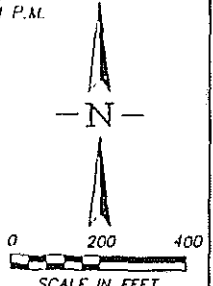
LEGAL DESCRIPTION

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5 AND
THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6,
IN TOWNSHIP 14 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN
IN SANGAMON COUNTY, ILLINOIS.



LEGEND

- STONE (FOUND)
- AXLE (FOUND)
- DISK (FOUND)



THE ABOVE DESCRIBED PLAT CORRECTLY REPRESENTS THE PARCEL OF LAND TO BE ANNEXED INTO THE VILLAGE OF CHATHAM, ILLINOIS.

Richard J. Mellott

KLING'S PROFESSIONAL LAND SURVEYOR # 2590



REVISIONS	DATE	BY



GREENE & BRADFORD, INC.
OF SPRINGFIELD

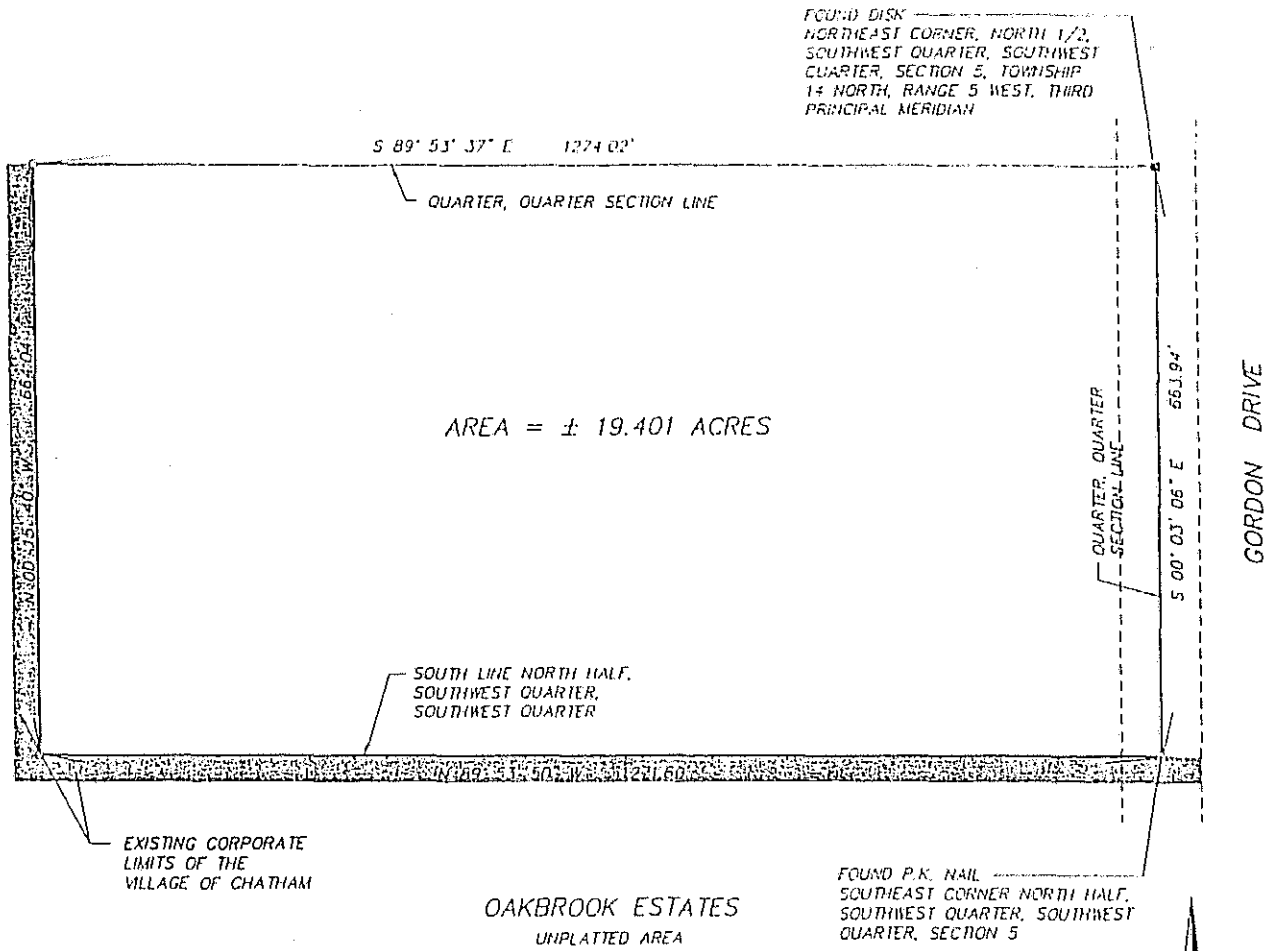
CONSULTING ENGINEERS
3501 CONSTITUTION DRIVE
SPRINGFIELD, ILLINOIS 62707
(217) 783-8444, (217) 783-8227 FAX
PROFESSIONAL LAND SURVEYING FIRM NO. 048-000080

DATE	07/28/99
DRAWN	CRUM
PROJ. NO.	99-099
FIELD BOOK	
COMPUTER FILE NO.	99099PA-200

EXHIBIT A

PLAT OF ANNEXATION

THE NORTH HALF OF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 14 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THE WEST 66 FEET THEREOF, ALL IN THE COUNTY OF SANGAMON, STATE OF ILLINOIS



LEGEND

- DISK (FOUND) ■
- IRON PIPE (FOUND) ○
- P.K. NAIL (FOUND) △

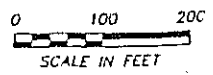
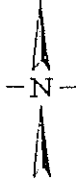
THE ABOVE DESCRIBED PLAT CORRECTLY REPRESENTS THE PARCEL OF LAND TO BE ANNEXED TO THE VILLAGE OF CHATHAM, STATE OF ILLINOIS.



ILLINOIS PROFESSIONAL LAND SURVEYOR # 2590

OAKBROOK ESTATES
UNPLATTED AREA

FOUND P.K. NAIL
SOUTHEAST CORNER NORTH HALF,
SOUTHWEST QUARTER, SOUTHWEST
QUARTER, SECTION 5



REVISIONS	DATE	BY



GREENE & BRADFORD, INC.
OF SPRINGFIELD
CONSULTING ENGINEERS
3201 CONSTRUCTION DRIVE
SPRINGFIELD, ILLINOIS 62707
(317) 793-8040, (317) 793-8227 FAX

DATE	05-26-91
DRAWN	DEFRATES
PROJ. NO.	96-386
FIELD BOOK	
COMPUTER FILE NO.	96386ANX - 10C

EXHIBIT B

AGREEMENT

Agreement entered into this 29th day of October, 1999 by and between **BALL-CHATHAM COMMUNITY UNIT SCHOOL DISTRICT NO. 5**, a body corporate and politic of the State of Illinois ("District") and **PHOENIX GROVE VENTURES, LLC**, an Illinois limited liability corporation ("Phoenix"), WITNESSETH:

WHEREAS, District is the owner of an 80-acre school site situated on Gordon Drive and located east of Chatham, Sangamon County, Illinois (hereinafter referred to as the "School Site") and legally described as:

The Northwest Quarter of the Southwest Quarter of Section 5; and
the Northeast Quarter of the Southeast Quarter of Section 6; all in
Township 14 North, Range 5 West of the Third Principal Meridian;
and

WHEREAS, Phoenix is the owner of real estate intended for residential development located south of the School Site (hereinafter referred to as the "Residential Property"); and

WHEREAS, District intends to construct a high school facility on the School Site; and

WHEREAS, it is in the mutual best interests of District and Phoenix to cooperate in the planning and development of the infrastructure attendant to the School Site and the Residential Property, and to share certain expenses associated with the construction of infrastructure improvements.

NOW THEREFORE, for and in consideration of the mutual promises hereinafter set forth, the parties hereto agree that:

1. **District Obligations:**

- (a) District shall reserve up to six acres as necessary to construct a drainage detention facility that will serve both the School Site and the Residential Property. Such detention facility shall be situated on the north easterly portion of the School Site in a location approved and designated by District's consulting engineers, Greene & Bradford, Inc..
- (b) District shall be solely responsible for all maintenance and repairs in connection with the detention facility, and for any safety/security measures implemented at or about the detention facility site.
- (c) District shall provide such drainage easements as are approved by Greene & Bradford, Inc. to facilitate drainage of the Residential Property to the detention facility.

2. **Phoenix Obligations:**

- (a) On or before December 31, 1999, Phoenix shall pay District \$130,000.00 in full satisfaction of its share of detention facility development and construction costs, or at Phoenix's option, shall escrow with Brown, Hay & Stephens such sum of \$130,000.00 in full satisfaction of Phoenix's share of detention facility development and construction costs, which escrowed funds shall be paid to District at such time as the detention facility shall be certified as substantially completed by Greene & Bradford, Inc.
- (b) Phoenix shall, at its sole expense, on or before April 1, 2000 (or at such later date as designated by District) extend a 15-inch sanitary sewer to the School Site in accordance with the Site Plan prepared by Greene & Bradford, Inc. and attached hereto and incorporated herein as Exhibit A. In addition, Phoenix shall, on or before October 10, 1999, provide such easements as are necessary for extension of electricity and other utilities to the School Site in accordance with said Exhibit A.

3. **Miscellaneous Provisions:**

- (a) In the event that either party shall be required to refer any provision of this Agreement to litigation for enforcement, then the losing party in such litigation shall reimburse the prevailing party for all attorney fees and court costs thereby incurred.
- (b) Each party shall promptly undertake such actions and execute such documents as shall be necessary and appropriate to facilitate the terms of this Agreement.

- (c) The parties acknowledge as follows in connection with the extension of Plummer Boulevard to Gordon Drive in accordance with the attached Site Plan:
 - (i) By separate agreement, District shall convey to the Village of Chatham such portion of the south 80 feet of the School Site as is necessary to facilitate the extension of Plummer Boulevard.
 - (ii) By separate agreement, Phoenix shall dedicate such portion of the Residential Property as shall be necessary to establish the east/west right-of-way along the southern boundary of Plummer Boulevard.
- (d) The foregoing commitments of the parties represent the entire consideration for this Agreement, and neither party shall provide any cash compensation to the other party in exchange for such commitments.
- (e) This Agreement shall not take effect until such time as each party hereto has entered into an Annexation Agreement with the Village of Chatham and the Village of Chatham has annexed the School Site and the Residential Property within its corporate limits.
- (f) The parties hereto acknowledge that the Village of Chatham is a third party beneficiary to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate to take effect as of the date and year first above written.

**BALL-CHATHAM COMMUNITY UNIT
SCHOOL DISTRICT NO. 5,**

Attest: Kim Anderson
Secretary

By: Jim Neuman
President, Board of Education

PHOENIX GROVE VENTURES, LLC,

By: [Signature]
Its Manager

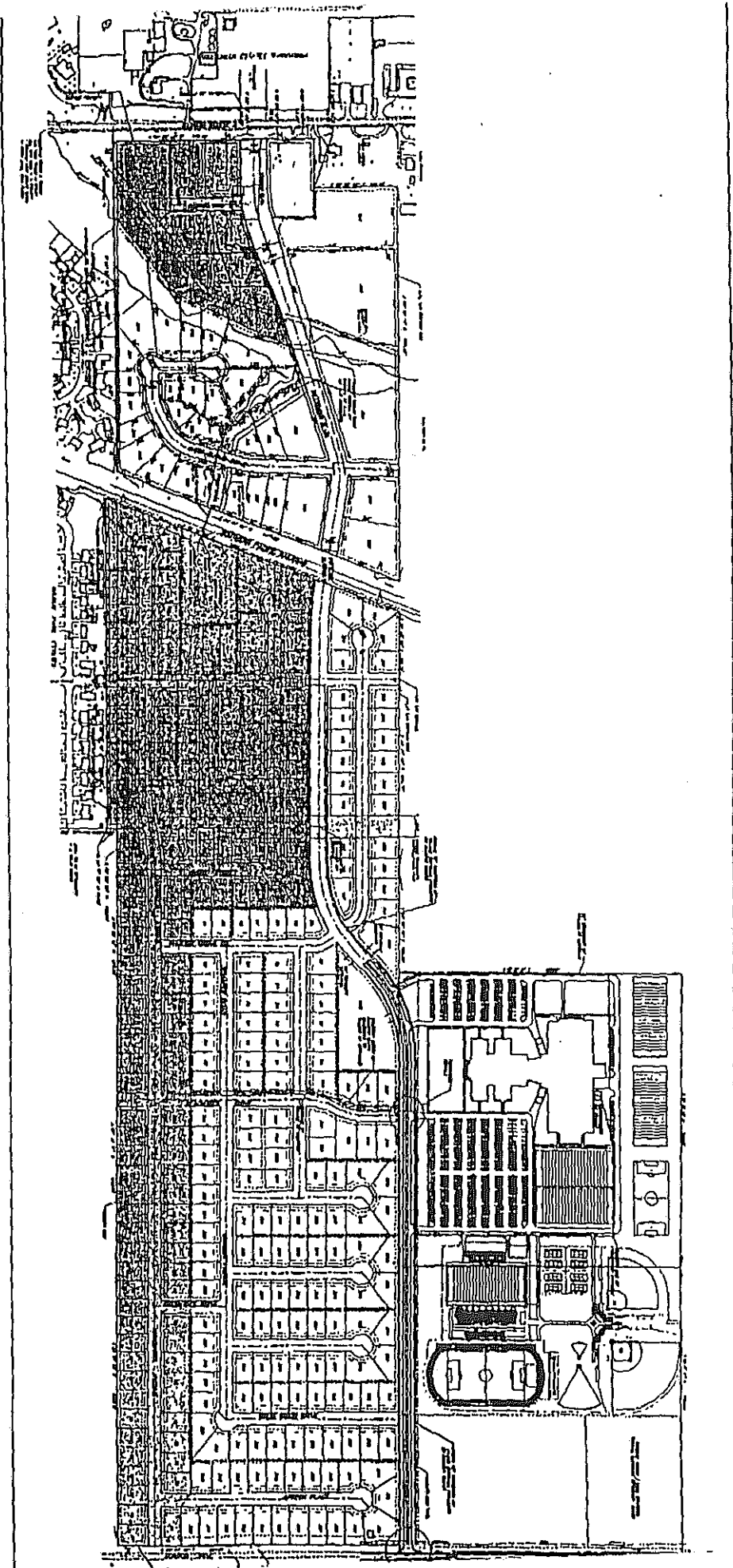


Exhibit A

Exhibit G
PETITION FOR ANNEXATION

PHOENIX VENTURES, LLC, an Illinois limited liability company, ("Petitioner"), hereby petitions the Village of Chatham, Sangamon County, Illinois, pursuant to Section 7-1-8 of the Illinois Municipal Code, to annex within its corporate limits certain real estate the legal description of which, and a map of which are contained on a Plat of Annexation attached hereto as Exhibit 1, together with all public roadways therein contained or contiguous thereto. Petitioner hereby states as follows:

- A. The above-described territory is contiguous to the Village of Chatham.
- B. The above-described territory is not within the corporate limits of any other municipality.
- C. Petitioner is the sole owner of record of the property, and there are no electors residing therein.

WHEREFORE, the undersigned Petitioner, hereby requests that the above-described real estate be annexed to the Village of Chatham, Sangamon County, Illinois.

Dated this 23 day of NOVEMBER, 1999

PHOENIX VENTURES, LLC

By: _____
Its Manager

Attest: _____
Its Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

VERIFICATION

_____, being duly sworn on oath, deposes and states that he is the manager of Phoenix Ventures, LLC; that he has reviewed the foregoing Petition for Annexation, and the statements therein made are true and correct.

SUBSCRIBED AND SWORN TO before me

this ____ day of _____, 1999.

Notary Public