

**A CORRECTED RESOLUTION ESTABLISHING A POLICY
CONCERNING THE IMPOSITION OF A SCHOOL FACILITIES
FEE AS A CONDITION OF SPECIAL USE PERMIT, FINAL PLAT OF SUBDIVISION,
OR FINAL PLAT OF PUD**

WHEREAS, on July 15, 2004, the County Board adopted Resolution #04-222; and

WHEREAS, through a clerical error the resolution signed did not accurately reflect the Resolution approved by the County Board; and

WHEREAS, the Will County Board states as originally provided in Resolution 04-222 the following:

WHEREAS, after due investigation, the Will County Board has concluded that there will continue to be significant residential development and student population growth in the unincorporated areas of Will County (hereinafter "County") in the near future;

WHEREAS, the local school districts that will be required to serve this development do not have the financial resources needed to provide new school buildings, building additions and improvements, school site improvements and related infrastructure ("School Facilities") to meet the needs of the additional student population that will be generated by this development; and

WHEREAS, existing ordinances requiring the dedication of land or the contribution of money in lieu thereof, or a combination of both, as a condition of the development or subdivision of land do not provide sufficient funding to construct the School Facilities needed to serve the immediate and future needs of the residents of new development; and

WHEREAS, the Will County Board finds that the imposition of School Facilities Fees as a condition of Special Use Permit, Final Plat of Subdivision, or Final Plat of PUD to be used for residential purposes which will add children to the schools would allow the collection of an equitable portion of the estimated cost of providing School Facilities needed to adequately address the immediate and future needs of the residents thereof; and

WHEREAS, the Will County Board further determines that, should the State further addresses the need for School Facilities' funding, this Resolution, to the extent it conflicts with the language and/or intent of any future action taken by the State, shall be disregarded.

NOW, THEREFORE, BE IT RESOLVED BY THE WILL COUNTY BOARD AS FOLLOWS:

Section 1: General

The Will County Board, *except in the case of age restricted developments*, will require the payment of a School Facilities Fee as a condition of Special Use Permit, Final Plat of Subdivision, or Final Plat of PUD to be used for residential purposes in the County. Therefore,

unless authorized or directed by the Will County Board, the approval of a Special Use Permit, Final Plat of Subdivision, or Final Plat of PUD shall be effected conditioned upon the agreement of the owner to pay a School Facilities Fee in substantial accordance with the provisions set forth in Exhibit A.

Section 2: School Districts to Provide Indemnification/Intergovernmental Agreement

It shall be a condition of the receipt of the School Facilities Fees that the benefited school district shall enter into an Intergovernmental Agreement with the County upon terms and conditions acceptable to the County Board and that such Agreement shall require, among other terms, it defend and indemnify the County from and against any and all claims or actions brought or asserted against the County in connection with the imposition, collection, administration or expenditure of the School Facilities Fees.

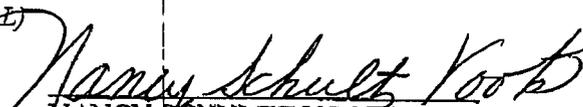
Section 3: Reservation of Powers

Nothing herein shall be construed so as to limit, condition or impair the exercise of powers conferred on the County to approve special use permits, final plats of subdivision, or final plats of PUD, to regulate further the zoning, subdivision or development of land, to levy or impose taxes and fees and to exercise other governmental functions and powers. The establishment of policy herein shall not be construed as a contract with any party. This Resolution may not be enforced by private action. This Resolution is subject to amendment or repeal. The failure to conform to the policy set forth herein shall not invalidate any official act of the County Board.

BE IT FURTHER RESOLVED that the preamble is incorporated herein.

Adopted by the Will County Board this 16th day of September, 2004.

VOTE: YES: 25 NO: 0 PASS (SEAL)


NANCY SCHULTZ VOOTS
WILL COUNTY CLERK

Approved this 21st day of September, 2004. (SEAL)


JOSEPH L. MIKAN

Exhibit A

DEVELOPMENT FEES

(A) General

In consideration of the approval of this Final Plat of Subdivision, Final Plat of PUD, or Special Use Permit by the County, the Owner hereby agrees, for itself and its Successors, to timely pay in full the following items ("Development Fees") in accordance with the applicable ordinances or conditions, as such ordinances or conditions may be presently constituted or as may hereafter be amended, including but not limited to:

- (1) School Site Contribution Ordinance,
- (2) School Facilities Fees as set forth below;

For purposes of this policy, Development Fees shall only be utilized for new school buildings, building additions and improvements, school site improvements and related infrastructure (hereinafter "School Facilities").

(B) Special Provisions Relating to School Facilities

In addition to any other tax or fee levied or imposed by the County, the Owner shall also pay a School Facilities Fee as set forth herein as a condition of receiving a Special Use Permit, Final Plat of Subdivision or Final Plat of PUD, which will add children to the schools.

(1) Unit School Districts

The School Facilities Fee shall be paid by the Owner in accordance with the following schedule for a unit school district consisting of kindergarten through twelfth grade:

School Facilities Fee – Unit School District (K-12)

Number of Bedrooms	1/1/04 to 6/30/04	7/1/04 to 12/31/04	1/1/05 to 6/30/05	7/1/05 to 12/31/05	2006	2007	2008
--------------------	-------------------	--------------------	-------------------	--------------------	------	------	------

Detached Single Family Dwelling Units

4+ bedroom	\$2640	\$3307	\$3974	\$4640	\$4826	\$5019	\$5220
3 bedroom	\$1763	\$2430	\$3097	\$3763	\$3914	\$4070	\$4233
2 bedroom	\$681		\$708		\$736	\$766	\$796

Attached Single Family Dwelling Units

4+ bedroom	\$1569	\$1902	\$2236	\$2569	\$2672	\$2779	\$2890
3 bedroom	\$900	\$1067	\$1234	\$1400	\$1455	\$1514	\$1575
2 bedroom	\$806		\$838		\$872	\$907	\$943

Apartments

3+ bedroom	\$1846		\$1920		\$1997	\$2077	\$2160
2 bedroom	\$651		\$677		\$704	\$732	\$761
1 bedroom	\$16		\$16		\$17	\$18	\$18

(2) Elementary School Districts

The School Facilities Fee shall be paid by the Owner in accordance with the following schedule for an elementary school district consisting of kindergarten through eighth grade:

<u>School Facilities Fee – Elementary School District (K-8)</u>							
Number of Bedrooms	1/1/04 to 6/30/04	7/1/04 to 12/31/04	1/1/05 to 6/30/05	7/1/05 to 12/31/05	2006	2007	2008
<u>Detached Single Family Dwelling Units</u>							
4+ bedroom	\$1977	\$2477	\$2976	\$3476	\$3615	\$3760	\$3910
3 bedroom	\$1215	\$1674	\$2134	\$2593	\$2697	\$2805	\$2917
2 bedroom	\$581		\$604		\$628	\$653	\$679
<u>Attached Single Family Dwelling Units</u>							
4+ bedroom	\$1041	\$1262	\$1484	\$1705	\$1773	\$1844	\$1918
3 bedroom	\$688	\$815	\$943	\$1070	\$1113	\$1158	\$1204
2 bedroom	\$621		\$646		\$672	\$699	\$727
<u>Apartments</u>							
3+ bedroom	\$1266		\$1317		\$1370	\$1425	\$1481
2 bedroom	\$441		\$458		\$477	\$496	\$515
1 bedroom	\$11		\$11		\$12	\$12	\$12

(3) **High School Districts**

The School Facilities Fee shall be paid by the Owner in accordance with the following schedule for a high school district consisting of ninth grade through twelfth grade:

<u>School Facilities Fee – High School District (9-12)</u>							
Number of Bedrooms	1/1/04 to 6/30/04	7/1/04 to 12/31/04	1/1/05 to 6/30/05	7/1/05 to 12/31/05	2006	2007	2008
<u>Detached Single Family Dwelling Units</u>							
4+ bedroom	\$663	\$830	\$998	\$1164	\$1211	\$1259	\$1310
3 bedroom	\$548	\$756	\$963	\$1170	\$1217	\$1265	\$1316
2 bedroom	\$100		\$104		\$108	\$113	\$117
<u>Attached Single Family Dwelling Units</u>							
4+ bedroom	\$528	\$640	\$752	\$864	\$899	\$935	\$972
3 bedroom	\$212	\$252	\$291	\$330	\$342	\$356	\$371
2 bedroom	\$185		\$192		\$200	\$208	\$216
<u>Apartments</u>							
3+ bedroom	\$580		\$603		\$627	\$652	\$679
2 bedroom	\$210		\$218		\$227	\$236	\$246
1 bedroom	\$5		\$5		\$5	\$6	\$6

(4) Annual Adjustments

Beginning in 2009 the amount of the School Facilities Fee shall be annually increased by 4% per year.

(5) Time of Payment of School Facilities Fees

School Facilities Fees shall be paid in full for a particular dwelling unit prior to the application for a permit to construct said dwelling unit. Payment shall be made directly to

the school district or districts in which the dwelling unit is located. Evidence of payment shall be issued by the school district and shall be submitted to the Will County Land Use Department at the time of building permit application. The failure to provide sufficient evidence of the required payment shall constitute sufficient grounds for the denial of the application for a building permit, or for the suspension or revocation of a building permit. In addition, the Will County Land Use Department may refuse to issue a certificate of occupancy, or may suspend or revoke the same, if sufficient evidence of payment of the School Facilities Impact Fee is not presented.

(C) Waiver of Right to Contest Development Fees

The Owner, for itself and its Successors, hereby waives and disclaims any and all right or claim it may have or hereafter acquire under which Owner or its Successors may seek to avoid, reduce, condition or delay the payment of Development Fees or seek a refund or rebate thereof, or that would have the effect of invalidating such fees or impairing the collection thereof.

(D) Covenant Not to Sue

In addition to the foregoing, Owner shall not bring suit, nor shall it join or become included in any proceeding, including, but not limited to, a class action proceeding, that:

- (1) seeks to enjoin, restrain, condition or impair the enforcement of conditions or ordinances imposing, implementing or amending Development Fees;
- (2) seeks a declaration regarding the validity, constitutionality or enforceability of such conditions or ordinances;
- (3) seeks the mandatory approval or execution of subdivision plats or construction permits without the full and prompt payment of Development Fees by a writ of mandamus or injunction; or

(4) seeks to enjoin, restrain, condition or impair the payment or collection of money or the transfer or improvement of property pursuant to ordinances or conditions imposing, implementing or amending Development Fees;

(5) claims that the enforcement of conditions or ordinances imposing Development Fees, as applied to the Owner, constitute a taking;

(6) claims the conditions or ordinances establishing, implementing or amending the Development Fees were not validly enacted.

(E) Reliance by County

The County has agreed to approve a Final Plat of Subdivision, Final Plat of PUD or Special Use Permit for the Parcel conditioned upon, in conjunction with and reliance upon the Owner's payment of Development Fees.

(F) Other Taxes and Fees

The payment of Development Fees shall be in addition to any other tax, fee, charge, assessment or requirement levied or imposed by the County.

(G) Owner's Recorded Declaration

The Owner shall provide, prior to this case being considered by the Will County Board, a recorded copy of the Declaration of Covenants for the applicable Homeowner's Association for the subject property, which contains substantially the following language:

The record owner of each lot, shall at the time of application for building permit, pay a School Facilities Fee in accordance with the attached Exhibit "____". This is a private obligation running with the land at law. If said owner does not pay said fee at the time of application for building permit, the same shall constitute a lien on said lot. This covenant and foreclosure of said lien is a restriction placed upon this property by the Declarant (Developer) and shall be enforceable by the Developer or by the affected school district. Said lot owner shall be responsible for all reasonable attorney's fees and costs incurred in enforcing this covenant. If the zoning is not approved for said property by the Will County Board or if the Will County Board does not impose the payment of School Facilities Fees as a condition to the special

use permit if applicable, this condition shall be considered null and void. This covenant may not be rescinded or amended without consent of the affected school district(s).

Owner or Petitioner will present to the County, prior to the time of action on said rezoning or special use permit request, at its cost, a Commitment for Title Insurance issued or later dated not more than five (5) days before action by the County Board, showing said covenant has been recorded and is a valid declaration of said requirement on said property, together with an affidavit that said covenant has not been amended, rescinded or revoked.