

## LAND CASH INTERGOVERNMENTAL AGREEMENT

WHEREAS, the County of Kane, Illinois, on behalf of itself, its officers, agents, and employees, through its ordinances has required contributions to the County of Kane by developers so that the County of Kane may, in turn, make those contributions available to the school and/or park districts or other eligible entities that are impacted by the subdivision improvements; and

WHEREAS, such contributions may be in land or in cash and, when transferred or paid over to the school and/or park districts, inure to the benefit of said districts; and

WHEREAS, the County of Kane is willing, at its discretion, to continue seeking contributions of land and money but requires a commitment from the districts that are benefited by the receipt of such contributions that those districts will: (a) acknowledge that the requirement that such develop contributions be made and the manner in which they are made are totally within the discretion of the County of Kane; (b) the districts that benefit from the contributions will bear the cost of defending and indemnifying against any and all lawsuits or legal actions of any kind challenging the appropriate amount of the contributions, the time at which they are to be made, the purpose for which said contributions are used, or any other aspect of the contributions; and (c) that a benefited district will comply with the terms of a final and nonappealable judicial determination by a court of competent jurisdiction rendered in connection with said actions; and

WHEREAS, the County of Kane is willing, in its discretion, to pay over or require contributions only upon execution of this agreement;

NOW, THEREFORE, IT IS AGREED between the County of Kane on behalf of itself and its board members, officers, agents, and employees and **Geneva Community Unit School District 304**, hereinafter referred to as the “Benefiting District”, a government body with

the State of Illinois, in consideration for the payment of money or the transfer of land to the Benefiting District, which the County of Kane from time to time may within its discretion cause to be made by developers, that:

1. Except as otherwise provided in the Kane County Code, the County of Kane is not obligated to cause the payment of money or the transfer of land to the Benefiting District. The Benefiting District recognizes that the County of Kane may, at its sole discretion, amend its ordinances or its practices with respect to the collection or distribution of developer contributions to the Benefiting District.

2. In the event a lawsuit or any other legal action is instituted against the County of Kane, the Kane County Regional Superintendent of Schools, the Benefiting District, and/or any board members, officers, agents, or employees of either which challenges the appropriateness, amount, timing, use, or any other aspect of a developer contribution that, has been paid or is due pursuant to the Kane County Code to the Benefiting District, the Benefiting District agrees to defend, indemnify, and hold the County of Kane, the Kane County Regional Superintendent of Schools, and/or any board members, officers, agents, and employees of either harmless and make whole the County of Kane, the Kane County Regional Superintendent of Schools and/or any board members, officers, agents, and employees of either, for any and all claims by any developer, subdivider, land owner, or any other person or entity arising out of the application for or use of said funds including but not limited to any judgments for compensatory damages, punitive damages, and/or attorney's fees.

3. In the event that a final and nonappealable judicial determination is made by a court of competent jurisdiction that contributions of land or money received by the Benefiting District are, in whole or in part, unwarranted, illegal, or excessive, the Benefiting District shall promptly pay and and all judgment amounts obtained against the County of Kane, the Regional Superintendent of Schools, the Benefiting District and/or any board members, officers, agents, or employees of either. In the event that a judicial determination requires the payment of damages,

either compensatory or punitive, and/or for the attorneys' fees of the plaintiff's attorneys, in addition to the return of contributions held to be unwarranted, illegal or excessive, the Benefiting District shall pay all such additional amounts.

4. In further consideration of the continued payment by the County of Kane to the Benefiting District of the subject contributions of land or money, the Benefiting District agrees that its obligations under paragraph two and three of this Agreement shall extend to both past and future cash and land contributions.

5. This Agreement shall be terminable by either party for any reason or no reason at all upon thirty (30) days' prior written notice to the other party evidencing the intention to so terminate this Agreement. However, the termination of this Agreement shall not affect the continuing obligation of the Benefiting District to the County of Kane, the Office of the Superintendent of Schools and their board members, officers, agents, and employees with regard to the collection and/or distribution of funds pursuant to the Benefiting District's application and pursuant to the provisions of this agreement, prior to termination.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on this 27th day of February, 2012.

COUNTY OF KANE

BENEFITING DISTRICT

Geneva Community Unit School District 304  
Name of District

227 North Fourth Street, Geneva IL 60134  
Address

\_\_\_\_\_  
Karen McConnaughay (Date)  
Chairman  
Kane County Board

\_\_\_\_\_  
Name (Date)

\_\_\_\_\_  
Title

SEAL

SEAL

ATTEST:

ATTEST:

\_\_\_\_\_  
John A. Cunningham  
Kane County Clerk

\_\_\_\_\_  
Name (Date)

\_\_\_\_\_  
Title