

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WOOD DALE
AND FENTON HIGH SCHOOL DISTRICT NO. 100
PERTAINING TO LAND AND LAND CASH FUNDS**

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter “Agreement”) is entered into by and between the City of Wood Dale, an Illinois municipal corporation ((hereinafter “City”), having an address at 404 Wood Dale Road, Wooddale, Illinois 60191, and Wood Dale School District No. 7 (hereinafter “School District”) having an address of 543 N. Wood Dale Road, Wood Dale, IL 60191, the City and the School District are together hereinafter referred to as the "Parties" and sometimes individually as “Party”.

RECITALS

WHEREAS, Article VII, Section 10, of the Constitution of the State of Illinois of 1970 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or by ordinance; and

WHEREAS, intergovernmental cooperation is further authorized by 5 ILCS 220/3; and

WHEREAS, the City is a unit of local government under the laws and Constitution of the State of Illinois; and

WHEREAS, the School District is a school district under the laws and Constitution of the State of Illinois; and

WHEREAS, Section 17.8015 of the City’s Unified Development Code, entitled “Parks and School Land Contributions”, as may be amended from time to time, provides that the City’s Community Development Commission may recommend and the City Council may require each subdivider/developer to dedicate land for park and recreational purposes and land for school sites, to serve the immediate and future needs of the residents of the parcel, to make a cash contribution in lieu of actual land dedication, or to provide a combination of both at the option of the CITY, as a condition of approval of a final plat of subdivision or of a final plat of a planned unit development, (hereinafter the “Land Cash Ordinance”); and

WHEREAS, said land (“Land”) or cash contributions in lieu thereof (“Land Cash Funds”) will be transferred or paid, as applicable, to the School District pursuant to the City’s Land Cash Ordinance requiring dedication of school sites and/or cash contributions in lieu thereof; and

WHEREAS, the Land Cash Ordinance sets forth the purposes for which Land and Land Cash Funds may be used; and

WHEREAS, for such purposes, school districts and park districts serving the City that are eligible to receive school or park sites or cash in lieu thereof are required, as a condition of receiving the dedications or donations, to enter into a binding, written intergovernmental Agreement with the City, providing for indemnification and holding harmless the CITY from any loss, claims and causes of action of every kind that may be incurred by the CITY as a result, either directly or indirectly, of the enactment of Section 17.8015 of the Unified Development Ordinance, or the administration or enforcement therefore, including any loss, claims, or causes of action incurred as a result of a lawsuit brought or threatened by the school district or park district.

NOW THEREFORE IT IS AGREED by and between the City and the School District, in consideration of the mutual covenants contained herein, as follows:

1. Recitals Incorporated. The above Recitals are substantive and are incorporated in this Section 1 by reference in their entirety.

2. Conveyance of Land and Payment of Land Cash Funds. Conveyances of land between the City and the School District may be made pursuant to the “Local Government Property Transfer Act” 50 ILCS 605/0.01 et seq., as amended from time to time, or in any manner not inconsistent with law. All sites dedicated pursuant to the Land Cash Ordinance shall be conveyed to the City. Thereafter, conveyance of land from the City to the School District shall occur only after, or simultaneous with, the passage of an ordinance or resolution by the School District that indicates that the site will be accepted by the School District for school purposes. Immediately thereafter, the City will convey the site to the School District. Subject to the provisions set forth in the City’s Unified Development Ordinance, Section 17.8015, the City may require payment of funds in lieu of land be paid directly to the School District.

3. Limitation. The City’s obligations under Section 2 above are limited to Land conveyed and Land Cash Funds collected pursuant to the City’s Land Cash Ordinance.

4. Use of Land and Land Cash Funds. All Land and Land Cash Funds received by the School District pursuant to this Agreement shall be held in trust, and used only in conformance with the City’s Land Cash Ordinance; the School District shall be solely responsible to and liable for ensuring such compliance. Any funds held which are not expended for the purposes as set forth in the Land Cash Ordinance within seven years after the date of receipt of such contribution shall be refunded to the individual/entity making such contribution or its successor or assigns.

5. Defense, Indemnification and Hold Harmless. To the fullest extent allowed by law the School District shall defend, indemnify and hold harmless the City and its officers, employees, agents and representatives from any claim, suit, demand or liability whatsoever

arising out of or related to the City's Land Cash Ordinance, the legality or enforceability of said Ordinance, or the use of the Land and/or Land Cash Funds, when the School District is the recipient, or intended recipient, of the Land and/or Land Cash Funds pursuant to the Land Cash Ordinance. Notwithstanding the foregoing, the School District's defense, indemnification, and hold harmless obligations shall not extend to the City's independent negligent acts or omissions or willful misconduct relative to payment of Land Cash Funds or relative to the conveyance of Land. The School District agrees that it shall employ competent and skilled legal counsel to represent the School District and the City and the City's officers, employees, agents and representatives, and further covenants and agrees that it shall keep the City fully advised as to the progress and status of the litigation. The School District shall provide the City with copies of all pleadings filed in the litigation and shall consult regularly (and shall cause its attorneys to consult regularly) with the City or its attorneys, as applicable, as to the strategy for defending the litigation. In no event shall the School District compromise or settle any claim or litigation described above without at least thirty (30) days prior written notice to the City's Attorney. Alternatively, if the City is sued by any applicant, subdivider, or developer as a result, directly or indirectly, of the enactment of the Land Cash Ordinance involving the School District's receipt of land or funds in lieu of land, the City may, at its option, undertake its own defense, and the City's costs and expenses related thereto, including attorneys' fees, will be immediately reimbursed by the School District.

6. Term. This term of this Agreement shall be for a period of twelve (12) months commencing on the Effective Date set forth in Section 15 hereof and shall automatically renew thereafter for additional twelve (12) month periods unless not less than sixty (60) days' written notice is given by either Party to the other Party of their intent to cease participation in this Agreement, or until the City's Land Cash Ordinance is repealed or declared invalid.

7. Survival/Remaining Land or Land Cash Funds. The provisions of Sections 1, 2, 4, 5, 8, 9, 10, 11, 12 and 13 of this Agreement shall survive the expiration or termination of this Agreement.

8. Severability. If any provision of this Agreement, or the application of any provision hereof, is rendered or declared invalid by a court of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

9. Choice of Law/Venue. This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

10. Ambiguity. If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

11. Amendment. No modification or amendment to this Agreement shall be effective until approved by the Parties in writing.

12. Entire Agreement. This Agreement sets forth and constitutes the entire Agreement between the Parties with respect to the subject matter described herein and supersedes any and all prior Agreements, understandings, promises, warranties, and representations made by each Party to the other concerning the subject matter.

13. Binding Nature. This Agreement is binding on the Parties and their successors and assigns.

14. Effective Date. The effective date of this Agreement ("Effective Date") shall be the date upon which it is fully executed by both Parties hereto.

15. Authority to Execute. Each of the signatories to this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of his or her respective Party and by such signature to bind that Party to this Agreement.

IN WITNESS whereof, the City and the School District have authorized the execution of this Agreement as provided herein.

CITY OF WOOD DALE

WOOD DALE SCHOOL DISTRICT NO 7

Nunzio Pulice
Mayor

Board President

ATTEST:

ATTEST:

City Clerk

Board Secretary

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