

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
REGARDING DEDICATION OF PARK AND SCHOOL SITES
OR THE CONTRIBUTION OF FEES IN LIEU THEREOF BY AND BETWEEN
THE BOARD OF EDUCATION OF GENEVA COMMUNITY
UNIT SCHOOL DISTRICT NO. 304, GENEVA PARK DISTRICT
AND THE CITY OF GENEVA, ALL LOCAL GOVERNMENTS OF KANE
COUNTY, ILLINOIS**

WHEREAS, GENEVA COMMUNITY UNIT SCHOOL DISTRICT NO. 304, an Illinois school district (hereinafter referred to as “SCHOOL DISTRICT”), GENEVA PARK DISTRICT, an Illinois park district (hereinafter referred to as “PARK DISTRICT”) and the CITY OF GENEVA, a non-home rule unit of local government (hereinafter referred to as “CITY”), all situated in the County of Kane, State of Illinois and sometimes collectively referred to as “the parties”, are authorized pursuant to Section 10 of Article VII of the Constitution of the State of Illinois (Ill. Const. Art. VII, Sec. 10) and Section 3 of the Intergovernmental Cooperation Act (5 ILCS 220/3) to contract or otherwise associate among themselves to obtain or share services and to exercise any powers or function not prohibited by law which either one of them is authorized by law to perform; and

WHEREAS, on or about May 1, 1989, the SCHOOL DISTRICT, PARK DISTRICT and CITY entered into an intergovernmental agreement (hereafter referred to as “1989 IGA”) for the allocation of responsibility for the defense of any challenge to the CITY’s Ordinance No. 88-71, which, in part, determined the obligation of land developers to make park and school site dedications or the contribution of cash in lieu thereof during the process of developing real property within the jurisdictional territory of the CITY; and

WHEREAS, the SCHOOL DISTRICT, PARK DISTRICT and CITY entered into a subsequent intergovernmental agreement on October 28, 1992 (hereafter referred to as “1992

IGA”) in anticipation of the CITY’s enactment of an ordinance (Ordinance No. 92-46 adopted November 2, 1992), which modified the requirements for dedication of park and school sites or the contribution of cash in lieu thereof; and

WHEREAS, the parties wish to amend and restate the 1989 IGA and 1992 IGA in order to coincide with the existing Title 12, Chapter 4 of the Code of Ordinances and future regulations of the CITY (collectively known as “Land/Cash Regulations”) relating to the dedication of park and school sites or the contribution of cash in lieu thereof for land development within the jurisdiction of the CITY.

NOW, THEREFORE, in consideration of the mutual promises hereinafter made, the CITY, SCHOOL DISTRICT, and PARK DISTRICT hereby amend and restate the 1989 IGA and 1992 IGA as follows, hereafter to be known as the **AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT REGARDING DEDICATION OF PARK AND SCHOOL SITES OR THE CONTRIBUTION OF FEES IN LIEU THEREOF** (hereinafter referred to as the “Amended Agreement”):

1. The Recitals set forth above are incorporated herein as if fully set forth in this paragraph 1.

2. It is the intention of the parties hereto and it is mutually understood that the purpose of this Amended Agreement shall be to assign the respective responsibility of defending the Land/Cash Regulations against any manner of legal or other challenge, which shall be fairly and equitably assumed by the parties.

3. The responsibilities for defense of the Land/Cash Regulations may include, but shall not be limited to, the retention of legal counsel of the responsible party’s choice to provide

necessary legal defense, the reimbursement of legal expense incurred by another party hereto for the responsible party's benefit, and any additional acts necessary to support the Land/Cash Regulations and defend the Land/Cash Regulations from being overturned or modified except as the parties may agree.

4. The SCHOOL DISTRICT shall be responsible for defending the following sections of the Land/Cash Regulations (all section references below refer to Title 12, Chapter 4 of the Code of Ordinances for the City of Geneva):

- A. **Section 12-4-5-2: CRITERIA FOR REQUIRING SCHOOL LAND DEDICATION;**
- B. **Section 12-4-5-3: RESERVATION OF ADDITIONAL LANDS,** provided, that an actual reservation by the SCHOOL DISTRICT is challenged;
- C. **Section 12-4-5-4: OTHER REQUIREMENTS FOR LAND CONTRIBUTIONS,** insofar as this Section applies to the SCHOOL DISTRICT;
- D. **Section 12-4-5-5: CRITERIA FOR REQUIRING CASH CONTRIBUTIONS IN LIEU OF LAND,** insofar as this Section applies to the SCHOOL DISTRICT;
- E. **Section 12-4-5-6: CRITERIA FOR REQUIRING LAND DEDICATION AND CASH CONTRIBUTIONS,** insofar as this Section applies to the SCHOOL DISTRICT;
- F. **Section 12-4-5-7: METHODOLOGY FOR CALCULATING DEDICATIONS AND CONTRIBUTIONS,** insofar as this Section applies to the SCHOOL DISTRICT;

G. **Section 12-4-5-8: DENSITY FORMULA**, insofar as this Section applies to the SCHOOL DISTRICT.

5. The PARK DISTRICT shall be responsible for defending the following sections of the Land/Cash Regulations (all section references below refer to Title 12, Chapter 4 of the Code of Ordinances for the City of Geneva):

A. **Section 12-4-5-1: CRITERIA FOR REQUIRING PARK AND RECREATION LAND DEDICATIONS;**

B. **Section 12-4-5-3: RESERVATION OF ADDITIONAL LANDS**, provided, that an actual reservation by the PARK DISTRICT is challenged;

C. **Section 12-4-5-4: OTHER REQUIREMENTS FOR LAND CONTRIBUTIONS**, insofar as this Section applies to the PARK DISTRICT;

D. **Section 12-4-5-5: CRITERIA FOR REQUIRING CASH CONTRIBUTIONS IN LIEU OF LAND**, insofar as this Section applies to the PARK DISTRICT;

E. **Section 12-4-5-6: CRITERIA FOR REQUIRING LAND DEDICATION AND CASH CONTRIBUTIONS**, insofar as this applies to the PARK DISTRICT;

F. **Section 12-4-5-7: METHODOLOGY FOR CALCULATING DEDICATIONS AND CONTRIBUTIONS**, insofar as this Section applies to the PARK DISTRICT;

G. **Section 12-4-5-8: DENSITY FORMULA**, insofar as this Section applies to the PARK DISTRICT.

6. The CITY shall be responsible for defending any challenge to the Land/Cash Regulations relating to the procedural adoption of the Land/Cash Regulations by the CITY.

7. In the event that multiple sections of the Land/Cash Regulations are challenged simultaneously or any other challenge is made that is not assigned to a party herein, the parties agree that such challenges shall be reviewed and analyzed on a case by case basis and the defense thereof shall be undertaken jointly by the parties and the responsibility for said defense shall be fairly and equitably assumed by the parties.

8. In the event that there is a final order or decree or judgment by a court of competent jurisdiction that requires any land contribution or cash fees in lieu of land heretofore distributed or transferred under the Land/Cash Regulations to be reconveyed or refunded, as the case may be, to a third party, the party hereto who obtained title to such land or received such contribution or fee shall be responsible for complying and satisfying said order, decree or judgment, and shall hold the other parties hereto harmless and indemnified from any such order, decree or judgments arising out of said Land/Cash Regulations.

9. Each party holds the other parties to this Agreement harmless and indemnified and releases the other parties from any and all damages that may arise from or out of that party's own failure to comply with any of the terms and covenants contained in this Amended Agreement.

10. This Amended Agreement may be mutually amended at any time in writing.

11. This Amended Agreement shall terminate upon the repeal of the Land/Cash Regulations.

12. This Amended Agreement shall become effective upon the approval and execution thereof by the last party hereto.

13. This Amended Agreement may be executed in multiple, identical counterparts, and all said counterparts shall, taken together, constitute an integrated Amended Agreement.

IN WITNESS WHEREOF, on this ____ day of _____, 2018, the parties hereto fixed their seals.

CITY OF GENEVA, ILLINOIS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

**BOARD OF EDUCATION OF
GENEVA COMMUNITY UNIT SCHOOL DISTRICT NO. 304**

By: _____
President

ATTEST:

By: _____
Secretary

GENEVA PARK DISTRICT

By: _____
President

ATTEST:

By: _____
Its Executive Director