

**BOARD OF EDUCATION
OF THE CITY OF PEORIA**

3202 N. Wisconsin Ave. Peoria, IL 61603

Richard M. Cloyd, President
Debbie Wolfmeyer, Vice President
Linda Butler
Lynne Costic
Chris Crawford
Laura Petelle
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Dr. Grenita F. Lathan, Superintendent
Joan L. Bastian, Board Secretary

March 25, 2014

City of Peoria
Attn: Dave Kinney
419 Fulton St., Ste. 207
Peoria, IL 61602

Ms. Green:

Enclosed please find the City's copy of the Intergovernmental Agreement for the property located at 839 West Moss Street. The agreement was approved by the Board of Education on March 24, 2014.

Please let me know if you are in need of anything further.

Thank you!

Joanie Bastian
Board Secretary
(309) 672-6763
Joan.bastian@psd150.org

**INTERGOVERNMENTAL AGREEMENT FOR THE TRANSFER OF REAL ESTATE
BETWEEN THE BOARD OF EDUCATION OF PEORIA SCHOOL DISTRICT NO. 150
AND THE CITY OF PEORIA**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this 24th day of March, 2014, by and between the Board of Education of Peoria School District No. 150, Peoria County, Illinois ("Board") and the City of Peoria, Peoria County, Illinois ("City").

WITNESSETH:

WHEREAS, Board is a unit of local government created and existing by virtue of the laws of the State of Illinois; and

WHEREAS, City is a unit of local government as defined by Article VII, Section 1, of the Constitution of the State of Illinois and is also a home rule municipality as provided for in Article VII, Section 6, of the Constitution of the State of Illinois; and

WHEREAS, Board currently holds title to the parcel of real estate commonly known as Washington School located at 839 West Moss Street, Peoria, Illinois, Peoria County, ("Real Estate") and legally described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Board no longer needs the Real Estate for its educational needs and therefor desires to sell the Real Estate; and

WHEREAS, the Real Estate has historical significance to the community, and the community and the City declare that it is necessary and convenient for the City to see the Real Estate is developed for the public purpose of maintaining a certain level of such historical presence and in a manner consistent with the surrounding neighborhood; and

WHEREAS, the Board desires to cooperate with the City to seek a purchaser of the Real Estate on such terms and conditions that are reasonably acceptable to the City and the Board; and

WHEREAS, upon City securing a purchaser to acquire the Real Estate, the Board shall transfer title of the Real Estate pursuant to the terms and conditions of this Intergovernmental Agreement to achieve the aforementioned goal; and

WHEREAS, Board has the authority to sell the Real Estate pursuant to Section 5-22 of the *School Code* (105 ILCS 5/5-22) in the manner provided in the *Local Government Property Transfer Act* (50 ILCS 605/0.01 *et seq.*); and

WHEREAS, Board finds that the Real Estate has become unnecessary, unsuitable, and inconvenient for the uses of the Board; and

WHEREAS, per Section 2 of the *Local Government Property Transfer Act*, the Board may transfer all of its right, title and interest in the Real Estate to City upon such terms as may be agreed to by the parties, by an instrument of conveyance signed by the Board President, attested

by its clerk or secretary and sealed with its corporate seal, all duly authorized by a resolution passed by two-thirds of the members of the Board then holding office, and duly recorded in the office of the recorder in the county in which the Real Estate is located; and

WHEREAS, Board and City are further authorized to enter into this Intergovernmental Agreement pursuant to Article VII, Section 10 of the *Illinois Constitution* and the *Intergovernmental Cooperation Act* (5 ILCS 220/1 *et seq.*); and

WHEREAS, the parties desire to utilize the powers granted them under Article VII, Section 10 of the *Illinois Constitution* and the *Intergovernmental Cooperation Act* to consummate the transaction contemplated by this Agreement; and

WHEREAS, both Board and City further find it in the best interests of the parties and their respective constituents that the Real Estate be conveyed to the City in accordance with the terms and conditions of this Intergovernmental Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the Board and the City, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Board and City hereby covenant and agree as follows:

1. **Transfer of Washington School.** The City shall have until August 31, 2014 (the "Marketing Period") to seek and obtain a purchaser for the Real Estate for a purchase price of no less than \$150,000, and on such other terms and conditions as are consistent with this Intergovernmental Agreement and acceptable to City and Board. The purchase price, less closing costs required hereunder, shall be tendered to the Board at closing. In the event City is able to secure a purchaser of the Real Estate in accordance with this Paragraph 1, City shall provide written notice thereof to Board detailing the mutually agreed upon terms and conditions of the sale on or before August 15, 2014 ("Notice") and City and the Board shall close on the transfer of the Real Estate within forty-five (45) days of the receipt of the Notice in accordance with the terms and conditions of this Intergovernmental Agreement. If City fails to provide the Notice in strict accordance with this Intergovernmental Agreement, Board shall have no obligation to transfer the Real Estate or to comply with any other terms and conditions of this Intergovernmental Agreement and this Intergovernmental Agreement shall terminate. City shall engage in reasonable efforts during the Marketing Period to secure a purchaser for the Real Estate which efforts shall include, but are not limited to, public meetings regarding the best use of the Real Estate and the issuance of a Request for Proposals from developers to submit proposals on the development of the Real Estate. Unless specifically provided in this Intergovernmental Agreement otherwise, the City and Board shall bear their own legal fees and costs related to the sale of the Real Estate.
2. **Cost of Maintenance.** During the Marketing Period, the City shall reimburse the Board for reasonable costs related to the maintenance and upkeep of the Real Estate, which shall include but is not limited to the cost of utilities and mowing. The Board shall consult with the City regarding any costs beyond routine maintenance issues.

3. **Conveyance.** Board shall convey or cause to be conveyed to City by recordable quit claim deed, the Real Estate, subject to all restrictions of record (“Permitted Encumbrances”) on an AS-IS basis. Board makes no representations as to the condition, permissible uses or otherwise relating to the Real Estate unless specifically provided for in this Intergovernmental Agreement. City assumes all risks associated with the Real Estate upon its transfer.
4. **Survey.** Board agrees to deliver to City, at least fourteen (14) days prior to the closing, at Board’s sole cost and expense, two (2) copies of a boundary survey of the Real Estate by an Illinois registered land surveyor, which is dated not more than six (6) months prior to the date of the closing (“Survey”). If the Survey shows other than Permitted Encumbrances or encroachments from adjacent property, then these shall be considered defects in the title to the Real Estate.
5. **Evidence of Title.** Board shall deliver, or cause to be delivered, to City within fourteen (14) days from the Notice, a current title commitment for an ALTA owner's title insurance policy in the amount of the purchase price of the Real Estate. The aforesaid commitment shall show title in the City, subject only to (1) the title exceptions set forth in Paragraph 2 hereof and (2) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the closing and which the Board will so remove at that time by using the funds to be paid to Board hereunder. The Board shall provide the City at closing with a title policy, subject to the general exceptions, based upon the requirements for providing a title commitment required hereunder. All costs of obtaining the aforesaid title commitment and title policy shall be paid by Board.
 - 5.1 **Closing.** The closing of the transaction herein described (the “Closing”) shall be on such date as required by the terms of this Intergovernmental Agreement or as otherwise mutually agreed at the offices of the title company, through a deed and money escrow with such special provisions inserted in the escrow agreement as may be required to conform with this Intergovernmental Agreement. Upon the creation of such an escrow, anything herein to the contrary notwithstanding, payment of the consideration and delivery of the deed shall be made through the escrow and the cost of said escrow shall be equally divided among the Board, City and final purchaser.
6. **Correction of Defects.** If the title commitment or the Survey herein required discloses unpermitted exceptions, Board shall have thirty (30) days from the date of delivery thereof to have the exceptions removed from the commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions, and, in such event, the closing shall be extended to a date fifteen (15) days after delivery of the revised commitment. If Board fails to have the unpermitted exceptions removed, or in the alternative, to obtain the commitment for title insurance specified above, as to such exceptions within the specified time, City may terminate this Intergovernmental

Agreement or may elect, upon notice to Board within ten (10) days after the expiration of the thirty (30) day period, to take title as it then is.

7. **Delivery of Possession.** Board shall deliver possession and control of the Real Estate to City at closing subject to the Permitted Encumbrances.
8. **Covenants, Representations, and Warranties.** In the event Board transfers the Real Estate to City, it shall covenant, represent and warrant to City as of the date of transfer that:
 - A. **Authority of Board.** Board has full power to execute, seal, acknowledge and deliver this Intergovernmental Agreement, and to consummate each and all of the transactions contemplated hereby.
 - B. **Notice of Legal Proceedings.** Board has not received any notice relating to any legal actions, suits, or other legal or administrative proceedings, including pending assessments, condemnation, eminent domain, or quiet title cases, pending or threatened, against the Real Estate.
 - C. **Leases, Tenancies and Encumbrances.** There are no contracts, covenants, financing statements, leases, tenancies or other agreements which affect the Real Estate other than the Permitted Encumbrances. Board shall be fully responsible for payment and satisfaction of any and all obligations, liabilities, expenses and accruals relating to or affecting the Real Estate which were incurred or accrued or where the underlying act or omission giving rise to any claim or cause of action occurred prior to the date of the closing.
 - D. **Notice of Action.** From the date hereof through the transfer, Board shall promptly comply with and forthwith give notice to City of all notices received by Board relating to the Real Estate given pursuant to any threatened or actual litigation or any state, city, or municipal law, ordinance, regulation, or order, and shall comply with the requirements of any authority, state, city or municipal department or other governmental entity having jurisdiction over the Real Estate or the use thereof.
9. **Provisions with Respect to the Transfer.** Upon the satisfaction of the conditions in Paragraph 1, at closing Board shall deliver to the City the following fully executed documents ("Transfer Documents"), all in form and substance reasonably satisfactory to City:
 - A. ALTA statements in customary form;
 - B. Affidavit of Title in customary form;
 - C. Closing Statement executed by the parties;

- D. Applicable Real Estate Transfer Declarations;
- E. Quit Claim Deed in customary form conveying the Real Estate to Purchaser subject only to the Permitted Encumbrances; and
- F. All such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and any and all such further instruments and documents as are reasonably necessary, expedient or proper to complete any and all conveyances, transfers, sales and assignments herein provided relating to the Real Estate.

10. **Notices.** All notices required hereunder shall be in writing and shall be delivered by first class U.S. Mail, return receipt requested or by overnight delivery with delivery confirmation to the addresses listed below:

If to Board: Dr. Dave Kinney, Interim Comptroller/Treasurer
3202 North Wisconsin Avenue
Peoria, Illinois 61603

with a copy to: James Levi
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005

If to City: City of Peoria
419 Fulton St.
Peoria, Illinois 61602

with a copy to: City Manager
City of Peoria
419 Fulton St., Suite 207
Peoria, Illinois 61602

Notice shall be deemed given upon deposit in the U.S. Mail or deposit with an overnight delivery service.

11. **Default:** If, prior to transfer, the Board or City defaults in the performance of any of the terms and conditions contained in this Intergovernmental Agreement, the non-defaulting party shall give a written notice to the defaulting party requiring that the default be cured within fifteen (15) days. If the default is not remedied within the fifteen (15) days after the first written notice, the non-defaulting party shall serve the defaulting party with a final notice of default indicating if said default is not cured within five (5) days thereafter, the non-defaulting party may terminate this Intergovernmental Agreement or take such equitable or legal action as is available to ensure compliance with the terms of this Intergovernmental Agreement.

12. **Time.** Time is of the essence of this Agreement.
13. **Governing Law and Interpretation.** This Agreement shall be governed by the laws of the State of Illinois. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms shall refer to this Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this Agreement. Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and the words importing the singular number shall mean and include the plural number and vice versa. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, joint ventures, and other legal entities, including public bodies, as well as natural persons. The terms “include,” “including” and similar terms shall be construed as if followed by the phrase “without being limited to.”
14. **Business Days.** If the date for transfer, or performance of an obligation falls on a Saturday, Sunday or holiday, the date shall be deferred until the first business day following.
15. **Entire Agreement.** This Intergovernmental Agreement contains the entire agreement between the parties hereto relative to the transfer of the Real Estate and all prior and contemporaneous understandings and agreements heretofore entered into relating to such sale are merged in this Intergovernmental Agreement, which alone fully and completely expresses the agreement of the parties. No amendments, modifications or changes shall be binding upon a party unless set forth in a duly executed document.
16. **Broker.** City and Board hereby represent that they have not had any dealings with respect to the Real Estate and this Intergovernmental Agreement with any broker or real estate dealer. Board and City agree to indemnify, defend and hold harmless each other against any brokerage claim asserted contrary to the foregoing representation with respect to the subject transaction.
17. **Waiver.** No waiver, and no modification, amendment, discharge or change of this Agreement, except as otherwise provided specifically herein, shall be valid unless the same is in writing and signed by the party against which the enforcement of such waiver, modification, amendment, discharge or change is sought.
18. **Binding Effect and Survival.** This Intergovernmental Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. Any covenant, representation, or agreement by a party hereunder which by its terms or by implication imposes an obligation to be performed after the transfer shall survive the transfer.
19. **Captions.** The captions of this Intergovernmental Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Intergovernmental Agreement or any of the provisions hereof. Notwithstanding

the foregoing, this provision shall not be construed to limit the legal authority of the parties to enter this Intergovernmental Agreement.

- 20. **Counterparts.** This Intergovernmental Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatories to the original or the same counterpart; provided, however, that this Intergovernmental Agreement shall not be binding upon any party or signatory hereto until each person or entity which is to execute this Intergovernmental Agreement has so executed a counterpart thereof.
- 21. **Authority to Execute.** Each signatory hereto represents and warrants that he or she has the proper and necessary corporate authority to execute this Intergovernmental Agreement and bind his or her respective entity to the terms and conditions hereof.
- 22. **Amendment.** This Intergovernmental Agreement may only be amended by written agreement of both parties.
- 23. **Incorporation of recitals.** The recitals set forth above are true and correct and are incorporated in this Agreement by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement as of the day first above written.

BOARD:

CITY:

BOARD OF EDUCATION OF
PEORIA SCHOOL DISTRICT NO. 150
PEORIA COUNTY, ILLINOIS

CITY OF PEORIA
PEORIA COUNTY, ILLINOIS

By:
Its: President

By:
Its: Mayor

Dated: 3/24/2014

Dated: 3/11/14

ATTEST:

ATTEST:

By:
Its: Secretary

By:
Its: City Clerk

Dated: 3/24/2014

Dated: 3/11/14

APPROVED
LEGAL DEPT.

EXHIBIT A**LEGAL DESCRIPTION**

Lots 9 through 16 of School Inspector's Addition, a subdivision of part of the SE $\frac{1}{4}$ of Section 5; Lot 16 and parts of Lots 18 and 19 of Moss Addition, Range 2, a subdivision of part of the SE $\frac{1}{4}$ of Section 5; and a part of the SE $\frac{1}{4}$ of Section 5; all in Township 8 North, Range 8 East of the 4th P.M., more particularly described as follows: Commencing at the Southeast Corner of Lot 5, Block 5, of Antis Addition, a subdivision of part of the SE $\frac{1}{4}$ of said Section 5 as the Point of Beginning of the tract to be described; thence South along the West ROW line of Orange Street, a distance of 96 feet to the Northeast Corner of said Lot 19 of said Moss Addition, Range 2; thence Southwesterly along the Northwesterly line of said Lot 19, a distance of 41.08 feet to a point 7.1 feet Northeasterly of the Northwest Corner of said Lot 19; thence in a Southeasterly direction, a distance of 95 feet, more or less, to a point on the Northeasterly line of said Lot 18, 55.4 feet Northwesterly of the Southeast Corner of said Lot 18 as measured along the Northeasterly line of said Lot 18; thence in a Southeasterly direction, a distance of 56 feet, more or less, to a point on the Northwesterly ROW line of Moss Avenue 3.25 feet Southwesterly of the Southeast Corner of said Lot 18; thence Southwesterly along the Northwesterly ROW line of Moss Avenue, a distance of 262.53 feet to the Northeasterly ROW line of Garfield Avenue; thence Northwesterly along the Northeasterly ROW line of Garfield Avenue, a distance of 203 feet to a point on the Easterly ROW line of Garfield Avenue; thence Northerly along the Easterly ROW line of Garfield Avenue, a distance of 181.2 feet to the Northwest Corner of said Lot 14 of said School Inspector's Addition; thence Easterly along the North line of said School Inspector's Addition, a distance of 316 feet to the Point of Beginning, containing 2.1 Acres, more or less, situate, lying and being in the County of Peoria and State of Illinois.

P.I.N. 18-05-482-018

ADDRESS: 839 West Moss Avenue, Peoria, Illinois