

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN
THE CITY OF AURORA AND EAST AURORA SCHOOL DISTRICT NO. 131
REGARDING THE RELOCATION OF THE DISTRICT'S ADMINISTRATIVE
OFFICES**

THIS AGREEMENT is made this 1st day of April, 2019, by and between CITY OF AURORA, an Illinois home rule municipal corporation (the "City") and the Board of Education of EAST AURORA SCHOOL DISTRICT NO. 131, KANE COUNTY, ILLINOIS, a public school district of the State of Illinois (the "School District"). Collectively, the City and the School District shall be referred to as the "Parties" and individually as a "Party".

WHEREAS, the Parties are vested with certain authority pursuant to their intergovernmental cooperation powers under Article VII, Section 10 of the Illinois Constitution of 1970 and the Illinois *Intergovernmental Cooperation Act* [5 ILCS 220/1, *et seq.*]; and

WHEREAS, the School District has identified a potential site within the City of Aurora to relocate the School District's administrative offices from the current site at 417 Fifth St. in Aurora;

WHEREAS, such relocation will allow the School District to centrally locate those personnel current working at 417 Fifth St., as well as other administrative personnel who are located at other facilities throughout the School District due to the lack of space at 417 Fifth St.; and

WHEREAS, such relocation will involve the School District participating in funding the renovation of a currently vacant and dilapidated property that is presently, and has long been, a blight on a neighborhood located in the School District boundaries (the "Vacant Property" also known as the Copley Hospital property bounded by Seminary Avenue, Lincoln Avenue, Weston Avenue and S. 4th Street); and

WHEREAS, the District's renovation activities will involve substantial investment of School District funds; and

WHEREAS, the City wishes to recognize and contribute to the School District's renovation and occupancy of the Vacant Property by making cash and other contributions to the School District;

WHEREAS, the City and the School District agree that renovation and occupancy of the Vacant Property by the School District will remove a substantial blight on the Property's neighborhood, will enhance the safety of the neighborhood, and is expected to have a positive impact on property values in the neighborhood;

NOW, THEREFORE, in consideration of the mutual promises and consideration set forth herein, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

1. The preambles set forth above are incorporated in this Agreement as though set forth in this Section 1.

2. In consideration of the School District's investment of not less than \$7 million over six (6) years, beginning in 2019, to renovate a portion of the Vacant Property and fund construction of a new building, and to relocate administrative functions to the renovated property pursuant to a long-term lease when it is ready for occupancy, the City agrees to:

A. Beginning upon the execution of this agreement and over the next twenty (20) years thereafter, provide monetary payments, grants, property donation, or in-kind assistance to the School District in a total aggregate value equal to One Million Five Hundred Thousand Dollars (\$1,500,000) related to the School Districts renovation and occupancy of the Vacant Property, its obligations under this agreement, or the improvement of the real property adjacent to the Vacant Property. Of the \$1,500,000 Dollars in total aggregate value, Five Hundred Thousand Dollars (\$500,000) will be paid in cash to the School District in twenty (20) equal installments of

Twenty-Five Thousand Dollars beginning July 1, 2020, and continuing each July 1 thereafter through July 1, 2039. As used in this paragraph, “in-kind assistance” shall include, but is not limited to labor, engineering, and any and all improvements to public works, infrastructure, or landscaping on or adjacent to the Vacant Property. The City and the School District shall collaboratively determine the timing and the form of the City assistance contemplated by this paragraph. By December 31 each year, the City shall provide the School District with a statement showing the claimed value of non-monetary property, goods, assistance and/or services provided to the School District during the current calendar year under this Agreement.

B. Take necessary actions to condemn and close the portion of Seminary Avenue between the Vacant Property and Bardwell Elementary School, landscape the former street section to connect the District’s Bardwell Elementary School property with the Vacant Property, and deed the closed street property to the School District. The City will make reasonable efforts to have this work completed by December 31, 2021.

3. The City’s obligations in Section 2 shall be void if by July 1, 2020, the School District has not funded at least One Million Dollars (\$1,000,000) of the renovation of the portion of the Vacant Property it will lease, and the City’s obligation to provide monetary payments, grants, or in-kind assistance as set forth in Section 2 will terminate in any year the School District abandons or otherwise ceases to occupy the renovated property after its initial occupancy.

4. The City agrees that the School District would not undertake to fund the renovation and subsequent lease of a portion of the Vacant Property without the City’s promises set forth in Section 2 above and that the School District is materially relying upon the City’s promises set forth in Section 2, as well as the prospect of the redevelopment of the remainder of the Vacant Property to reject alternative relocation sites for its administrative offices and select a portion of the Vacant

Property instead. Upon the execution of this Agreement, the District shall make all reasonable efforts to negotiate and enter into a lease for its use of the Vacant Property. The District shall negotiate in good faith and will not unreasonably refuse to execute a lease that conforms to commercially acceptable terms, recognizes the District's governmental character and the limitations associated therewith, and is of sufficient duration to allow the District to satisfy its obligations under this Agreement. All other obligations imposed on either Party by this Agreement are expressly conditioned the District entering into a lease for the Vacant Property by December 31, 2019.

5. In consideration of the City's obligations in Paragraphs 2-4 above, the School District agrees that it will continuously occupy the Vacant Property for a period of not less than ten (10) years.

6. Each Party agrees not to raise lack of authority as a defense in any action brought by the other or any third party regarding this Agreement. The Parties agree that there are no intended third-party beneficiaries with the authority or standing to enforce this Agreement. Each Party and its counsel have participated in drafting this Agreement and, therefore, none of the language contained herein shall be presumptively construed in favor of or against either Party.

7. If any material term, promise, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall be invalid, void, or unenforceable unless the Parties expressly agree otherwise within thirty (30) days of such holding.

8. Each Party shall execute and deliver any further documents and do all acts and things as each Party may reasonably require to carry out the true intent and meaning of this Agreement.

9. Monetary payments or grants made pursuant to Section 2(A) above shall be from any funds chosen by and available to the City, and once paid to the School District shall be non-refundable. The Parties agree that the City shall have no duty to make monetary payments or grants until the District has begun to fulfill all construction and funding commitments as outlined in this Agreement.

10. No Party may waive of any term or condition of this Agreement without the written consent of the other unless the waiving party is the sole beneficiary of the term or condition it proposes to waive. No waiver shall be binding or effective for any purpose unless set forth in writing and signed by the Party making the waiver, and then shall be effective only in the specific instance and for the purpose given.

11. In the event of any default of any promise contained herein, after giving the defaulting Party a reasonable opportunity to cure such default, the non-defaulting Party may litigate to enforce this agreement and shall be entitled to recover any and all reasonable attorney's fees and costs incurred in enforcing this Agreement against the defaulting Party.

12. A Party shall not be deemed in default of this Agreement with respect to any obligation(s) of this Agreement on such Party's part to be performed if such Party fails to timely perform the same and such failure is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, war, fuel shortages, accidents, casualties, floods, earthquakes, fires, acts of God, epidemics, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other Party (or the other Party's agents, employees or invitees) or similar causes beyond the reasonable control of such Party ("Force Majeure") related to the Vacant Property. If

one of the foregoing events shall occur or either Party shall notify the other Party that such an event shall have occurred, the Party to whom such notice is provided is made has the right, but not the obligation to investigate the notification and consult with the party making such claim of Force Majeure regarding the same and the Party to whom such claim is made shall grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was caused or exacerbated by such Force Majeure.

13. The District agrees that so long as it owns the property housing the District's current Administrative Offices (417 Fifth St.), the District shall make reasonable efforts to keep the property in good repair and prevent it from become a blight on the neighborhood.

14. This Agreement expresses the complete and final understanding of the Parties with respect to its subject matter and may not be amended or modified except by a written agreement executed by the Parties. This Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof.

15. The effective date of this Agreement shall be the date that the last of the Parties executes this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized officials as of the dates set forth below.

BOARD OF EDUCATION, EAST
AURORA SCHOOL DISTRICT NO. 131,
KANE COUNTY, ILLINOIS

CITY OF AURORA, Kane County,
Illinois



President

Mayor

Attest: 
Secretary

Attest: _____
City Clerk

Date: 4-1-19

Date: _____

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