

11/1/99 Execution Copy

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN
THE VILLAGE OF GLEN ELLYN, THE GLEN ELLYN PARK
DISTRICT AND GLENBARD TOWNSHIP HIGH SCHOOL
DISTRICT 87 FOR THE DISPOSITION AND JOINT USE OF PARK
AND SCHOOL FACILITIES WITHIN THE VILLAGE OF GLEN ELLYN**

This Agreement is between the Village of Glen Ellyn, a home rule municipality in DuPage County, Illinois (the "Village"), the Board of Commissioners of the Glen Ellyn Park District, DuPage County, Illinois (the "Park District") and the Board of Education of Glenbard Township High School District 87, DuPage County, Illinois (the "School District").

WHEREAS, the Park District has a need for additional funds to improve park lands;

WHEREAS, a portion of the funds required by the Park District may be secured through the sale of the Park District's Memorial Park to the School District;

WHEREAS, the School District is the primary user of Memorial Park and desires to acquire the Park for inclusion in, and use as a part of, the Glenbard West High School campus;

WHEREAS, the School District's acquisition of Memorial Park and the Park District's acquisition and improvement of additional park lands will further the Village's comprehensive land use plan and contribute to the economic and environmental health of the Village;

WHEREAS, Memorial Park has been appraised at a fair market value of \$1,850,000, which amount includes the value of the improvements to Memorial Park;

WHEREAS, the Glenbard West Boosters Club has contributed approximately \$50,000 to the cost of very recent improvements to Memorial Park for the benefit of the School District;

WHEREAS, the School District receives, under the auspices of the Village, contributions from developers of land for residential purposes, all or a substantial portion of which contributions the School District will apply toward payment for Memorial Park and specifically for the portion of the Park occupied by the building located at the northeast corner of the Park;

WHEREAS, the Park District and the School District have a well established history of shared use of facilities, which each District desires to continue for the benefit of their respective constituencies;

WHEREAS, a fundamental principle to be applied by the Park District and the School District in carrying out the shared use of facility provisions of this Agreement is substantial equity and balance between the facilities provided by each party for the other's use; and

WHEREAS, without limitation as to any other source of authority, this Agreement is entered into and will be carried out in the exercise of the parties' respective powers under the intergovernmental cooperation provisions of Article VII, Section 10 of the Illinois Constitution, the Intergovernmental Cooperation Act, the Illinois Local Government Property Transfer Act, the Village's home rule powers under Article 7, Section 6 of the Illinois

Constitution and the respective Park and School Codes governing the powers of the Park District and the School District.

NOW, THEREFORE, the Park District, the School District and the Village agree as follows:

A. SALE OF MEMORIAL PARK

1. Village Acquisition of Memorial Park. By no later than 30 days after satisfaction of the contingency set forth in paragraph A.4 below, the Village shall acquire Memorial Park described on the attached Exhibit A from the Park District at a price of \$1,800,000, exclusive of prorations. The Village's agreement to acquire Memorial Park and its other obligations outlined in this Agreement are all contingent upon its ability to sell general obligation bonds in an amount not to exceed \$1,800,000 in accordance with documents agreed to, in their absolute discretion, by the Village and the School District. The terms and conditions of the Village's acquisition of Memorial Park from the Park District are set forth in the attached Exhibit B.

2. Village Sale of Memorial Park to the School District by Contract for Deed. Provided the Village has acquired Memorial Park by no later than the time provided in paragraph 1 above, the School District shall acquire Memorial Park from the Village on a contract for deed basis at a price of \$1,800,000 under the terms and conditions set forth in the attached Exhibit C (the "Contract for Deed"). The Village will turn over possession of Memorial Park when it receives such possession from the Park District.

For so long as payments are due the Village from the School District under this Agreement, the School District shall maintain Memorial Park substantially in its present condition, unless otherwise authorized by the Village. The School District may prepay its financial obligations under this Agreement at any time.

3. Financing of the Acquisition of Memorial Park.

a. Bonds. The Village shall use its best efforts to sell its general obligation bonds (the "Bonds") to finance the acquisition of Memorial Park in an amount not to exceed \$1,800,000, plus any additional amounts necessary to capitalize interest and the costs of issuance. The selection of a financial adviser, capitalization of interest and costs of issuance, and whether the Bonds shall be sold through a public sale or negotiated sale shall be at the discretion of the School District; provided, however, the Village may object to the discretionary acts of the School District and may decline to follow the School District's direction if such direction would materially impair the Village's credit worthiness or standing in the bond market. The School District shall pay all costs of issuance, whether or not capitalized, and all amounts necessary to pay the principal and interest on the Bonds when due. The maturity schedule for any Bonds issued shall be such that the last payment to the Village by the School District under this Agreement to meet the Village's principal and interest payment requirements on the Bonds shall be due no later than ten years from the date on which the Contract for Deed becomes

effective. Unless otherwise agreed between the School District and the Village, the Contract for Deed shall become effective when the first of the Bonds are sold.

The proceeds of the Bonds shall be applied first to the costs of issuance and second to the payment of the price of acquisition of Memorial Park from the Park District. The proceeds of the Bonds shall be placed in a special interest-bearing account established by the Village. All interest earned from the proceeds of the Bonds shall be applied to the Village to meet the School District's obligations under paragraph 3.b. below, thereby reducing the amount otherwise necessary to be paid by the School District under such paragraph.

b. Security. By no later than October 1st of each year of this Agreement, the School District shall pay the Village an amount equivalent to the principal and interest which must be paid by the Village on the Bonds for the succeeding year, less any amounts available as a result of paragraph 3.a. above, so as to permit the Village to abate the tax levy for the Bonds for that year. The School District hereby pledges its first receipt of taxes levied for operations and maintenance purposes in an amount sufficient to pay the foregoing obligations and shall further direct the County Collector to pay such amount directly to the Village. If the County Collector declines to make such payments directly to the Village, the School District, at its expense, shall establish an escrow for such purposes with the direct depository of its operations and maintenance tax receipts. If the payments necessary to permit the Village to abate its

tax levy for the Bonds have not been made pursuant to the County Collector or escrow process established above, the School District shall make the payments as a general obligation of the School District by no later than February 1 of the year in which the Village must make the principal and interest payments on the Bonds for that year. The payments made to the Village under this sub-paragraph b. shall be deposited in a special interest-bearing account established by the Village. The interest earned in any year shall be applied to reduce the amount due from the School District to meet the next year's principal and interest payments on the Bonds. The payment of the funds to the Village so that the Village may abate and not be required to annually levy taxes to pay for the retirement of the bonds is of the essence of this Agreement. The Village and the School District understand that it is intended that the Village shall never be obligated to levy for these bonds and that the amounts of levies filed with the County Clerk are intended to be abated in each year. In the event that the security provided for in this subsection is not established, or the funds due are not paid for any reason, the Village may proceed in a lawsuit to compel the School District, through mandatory injunction or other means, to pay whatever revenues are available from taxes levied for operations and maintenance purposes or from other moneys lawfully available to fund the School District's obligations under this Agreement.

c. Disposition of Funds. Any funds remaining in the special accounts established by the Village or the escrow established under paragraphs 3.a. and 3.b.

above after the School District has met all of its obligations with respect to the Bonds shall be paid to the School District within thirty (30) days of the School District's satisfaction of such obligations.

4. Zoning Contingency. This Agreement is contingent on the Village's approval by no later than January 30, 2000, of the following:

a. A text amendment to its Zoning Code creating a special use category in the CR zoning district for: (i) public schools substantially similar to the permitted use for public schools as currently provided in the R2 zoning district; and (ii) public or private recreational or office uses where buildings do not occupy more than 10 percent of the site area;

b. A special use permit for the School District under a. above limited to use of park grounds and existing buildings with conditions mutually acceptable to the School District and the Village, including designated areas in which parking spaces may be created to serve Memorial Park and the adjoining Glenbard West High School site.

The School District and the Village shall make a concerted, good faith effort to accomplish the foregoing as soon as reasonably possible so as to permit this contingency to be satisfied. The Park District, as current owner of Memorial Park, shall also cooperate in achievement of the foregoing by signing appropriate applications and related documents and through staff appearances at Village hearings. With such cooperation from the Park District, the School District, at its expense and through its attorneys, will pursue the foregoing zoning

changes. The Park District will not be expected to bear any Village fees or any of the legal expenses of the foregoing zoning changes, except for the fees of its attorneys if it chooses to involve them.

In the event the contingency set forth in this paragraph is not satisfied by January 30, 2000, any party to this Agreement may terminate the Agreement by giving at least 60 days advanced, written notice to the other parties.

The zoning and use of Memorial Park shall also be carried on in accordance with the Intergovernmental Cooperation Agreement between the Village of Glen Ellyn and School District 87, entered into in 1989, and with regard to Memorial Park, shall be in full force and effect at least until all of the Bonds issued shall have been retired.

5. Indemnity. The School District shall indemnify, defend and hold harmless the Village from any claim, demand or suit of whatever kind brought against the Village and arising out of the Village's entry into this Agreement, the acts or omissions of the Village or the School District in implementing this Agreement and the School District's use, improvement and occupancy of Memorial Park, except for the willful acts or omissions of the Village. As used in this paragraph, the term "Village" includes the Village's officers and employees.

6. Developer Contributions. The School District has received under Village auspices, and is dependent on continuing to receive, contributions from residential developers to help the School District provide land and facilities to those students attributable to the

residences constructed by such developers. The School District will be applying such contributions to pay for the purchase of Memorial Park, specifically including the building on the Park, so as to permit educational use of the building. Therefore, at least until such time as the School District has made all of the payments to the Village under this agreement, or if earlier, the time for such payments has elapsed, the Village shall continue its practices of encouraging residential developers to make appropriate contributions to the School District. If Village encouragement becomes insufficient to secure such contributions, the Village will promptly enact an appropriate ordinance requiring contributions.

7. Right of First Refusal. If after receipt and recording of the deed to Memorial Park the School District determines to sell all or a portion of the property, the Park District shall be notified of the District's intention to sell and given an opportunity to purchase the property at its fair market value. The fair market value shall be determined either by the price agreed upon between the School District and another buyer in good faith in a written contract or, if no such contract exists, by appraisal of the property. If the contract method is applicable, the School District shall so notify the Park District and provide the Park District with a copy of the contract showing the purchase price. The Park District shall advise the School District within 10 days of its receipt of the contract of its commitment to acquire the property at that price. If the appraisal method is applicable, the School District shall so notify the Park District and, within 10 days of receipt of the School District's notice, the Park District and the School District shall select their own MAI appraisers, who shall in turn select a third MAI appraiser.

The fair market value shall be determined within 60 days of the School District's initial notice of intent to sell and shall be the average of the values identified by the three appraisers based on a highest and best use consistent with the CR zoning with special uses referenced in paragraph 4 above. The closing shall take place within 30 days of the completion of the appraisal process or the Park District's receipt of the purchase contract with another buyer, on terms, other than price, substantially the same as in Exhibit B.

8. The uses of Memorial Park by the School District shall be consistent with the CR zoning, with special uses, referenced in paragraph 4.a. above.

9. The terms of this Part A. shall survive the transfer of Memorial Park to the School District and shall not be merged therein, but shall remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

B. JOINT USE OF FACILITIES BY THE PARK DISTRICT AND THE SCHOOL DISTRICT

1. From the effective date of this Agreement through June 30, 2020, unless earlier terminated as hereinafter provided, the Park District and the School District shall jointly use their property and facilities as provided below in this paragraph B and the attached Exhibits D and E.

2. The Park District shall be permitted to use the portions of the School District's Glenbard West High School and Glenbard South High School (the "School") designated on the Exhibit D to conduct Park District programs identified in Exhibit D, according to a

schedule established by mutual agreement on or before April 1 annually for the Fall and Winter sessions and on or before October 1 annually for the Spring and Summer sessions, by the Park District's Executive Director (the "Executive Director") and the School District's Superintendent (the "Superintendent") or their respective designees. The Executive Director and the Superintendent may mutually agree to additional or alternative facilities and programs under this paragraph B.2 and paragraph B.3. below.

3. The School District shall be permitted to use the portions of the Park District's facilities (the "Facilities") designated on the attached Exhibit E to conduct School District programs identified in Exhibit E, according to a schedule established, by mutual agreement, on or before April 1 annually for the Fall and Winter sessions and on or before October 1 annually for the Spring and Summer sessions, by the Executive Director and the Superintendent or their respective designees.

4. The School District and the Park District recognize that their own activities have priority in scheduling the use of facilities subject to the balance and equity principles set forth in the preambles to this Agreement and the good faith commitment to provide meaningful uses at reasonable times by each party of the other's facilities. However, once scheduled, each event shall have first priority for its assigned facility. In the event it is necessary to modify the schedules established under the foregoing paragraphs 2 and 3 due to unforeseen circumstances, or due to short-term routine maintenance and repairs, the party requiring rescheduling shall notify the other party as soon as possible and attempt to resolve any scheduling conflicts. The

rescheduling party shall attempt to provide an alternate facility for the other party. In the case of outdoor fields, the rescheduling party will have final decision-making authority as to when the fields are usable, based on field and weather conditions.

5. At the close of each instance of use, the School District shall leave the Park District's facilities in substantially the same condition as at the outset of the instance of use, ordinary wear and tear excepted. The Park District shall have the same obligation with respect to use of the School District's facilities. The failure of either party to comply with this paragraph shall permit the other party to undertake corrective action and bill for the costs of such action, which reasonable bills shall be paid within thirty (30) days after receipt, to the extent the cost is not covered by the casualty insurance required under paragraph 13 below.

6. Each party shall conduct its use of the other's facilities in such a manner as to minimize disturbances to the surrounding neighborhoods including, but not limited to, removal of litter after the event, adherence to parking requirements and restrictions, and adherence to Park closing time or schedule, whichever is later.

7. Neither party shall modify or construct any structures or apparatus on the other's property without the express written approval of the Executive Director in the case of the Park District's facilities, or the Superintendent in the case of the School District's facilities.

8. Each party shall provide adequate adult supervision at all times for activities on the other party's property. The name of the supervisor or teacher with direct primary responsibility for each activity shall be given in advance by the party conducting the activity to

the Executive Director's or Superintendent's designee. This sub-paragraph 8 is inserted only for the benefit of the contracting parties and is not intended to raise or acknowledge any duty to any other person or entity.

9. If the School District's expanded Biester Gymnasium is not available and scheduled for use by the Park District by September 1, 2000, the School District shall pay the Park District \$1,667.00 per month on the first of each month beginning on September 1, 2000, subject to proration as appropriate, until such time as Biester Gymnasium is so available to the Park District. The Park District shall also be permitted to use, without charge, the building and parking lot at the northeast corner of Memorial Park for its pre-school and safety village programs through August 31, 2000. These provisions are made in recognition that if Biester Gymnasium is not made available to the Park District by such date, the substantial equity and balance principle provided for in the preambles to this Agreement will not be achieved without the payment. Thereafter, the Park District and School District recognize that substantial equity and balance will be achieved without any payments, except as provided in paragraph B.10 below, through the sharing of the facilities set forth in Exhibits D and E when scheduled in accordance with paragraphs 2 and 3 above and the equity and balance principles articulated in the preambles to this Agreement.

10. The party conducting the activity shall pay for the cost of supervision, facility preparation, such as field striping and equipment set up, and any extraordinary costs associated with the activity. The Executive Director and the Superintendent shall attempt to identify

extraordinary cost items at the time of scheduling under paragraphs 2 and 3 above. Other costs associated with use of the facilities, such as utilities, maintenance, mowing and seeding, will be paid by the owner of the facility.

11. The School District shall indemnify and hold harmless the Park District, including its Board members, in their individual and official capacities, the Board's employees and agents, and their successors and assigns, from any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, for any claim against the Park District for property damage or personal injury resulting from the School District's use of the facilities, except to the extent of the fault of the Park District. The Park District shall have the same obligation to the School District, including its Board members, in their individual and official capacities, the Board's employees and agents, and their successors and assigns, with respect to the Park District's use of school facilities.

12. Each party shall keep in force during the term of this Agreement, occurrence-based comprehensive general liability insurance, in an amount not less than \$5,000,000, including automobile and broad form contractual liability coverages, with the other party named as additional insured. Such insurance shall be written by responsible carriers and shall be evidenced by a Certificate of Insurance, all as reasonably acceptable to the other party.

13. At all times during the term of this Agreement, each party shall further maintain broad form casualty insurance on, and in an amount consistent with the value of, the property to be used by the other party. Each party shall obtain, at the other's cost if not included in the

base premium, a provision in such insurance waiving subrogation against the other party. To the extent the waivers of subrogation are mutually obtained, each party releases the other with respect to liability for any loss covered by the casualty insurance.

14. Neither party may assign any rights or duties under this Agreement without the prior written consent of the other party.

15. In the event the Park District believes the School District to be in default under this Section B., the Director shall notify the Superintendent in writing and allow the School District thirty (30) days from the date of receipt of the notice, to cure the default. If the default is not then cured, the Park District may terminate all use by both parties under this Section B. by serving written notice on the Superintendent effective thirty (30) days after receipt of the notice by the Superintendent. The School District shall have the same default and termination rights and obligations as the Park District. The parties recognize that damages for breach of this Agreement may be extremely difficult to ascertain and, therefore, agree that specific performance shall be a remedy available to either party in any dispute over the failure of the other party to permit the uses provided for by this Agreement. Although not an exclusive measure of default under the balance and equity principles of this Agreement, the parties further recognize that default under such principles of this Agreement will occur if, for one school year, the available hours of reasonable use of the School District's facilities by the Park District are less than 80% of the available hours of reasonable use of the Park District's facilities by the School District. The same shall be applicable to the School District's use of the Park

District's facilities. If parity in use is not achieved for the next school year in the scheduling process set forth in this Section B, then the party with disparate use may terminate use by all parties under Section B upon 30 days' notice of default and 30 days' notice of termination as provided above.

16. Either party may, without cause, terminate all use by both parties under this paragraph B., effective June 30 of 2010, or June 30 of any year thereafter, provided at least one year's advance written notice is given to the other party.

17. The provisions of Part B. of this Agreement, and the School District's current uses of Memorial Park, shall be in full force and effect while the contingency set forth in Part A.4. above is being pursued and thereafter for the term of this Agreement if the contingency is satisfied.

18. The Village is not a party to, nor does it undertake any obligations pursuant to, paragraph B.

C. MISCELLANEOUS PROVISIONS

1. Time is of the essence of this Agreement.

2. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday or legal holiday, such time for performance shall be extended to the next business day.

3. This Agreement may be executed in counterparts, each of which shall constitute an original, but all together shall constitute one and the same Agreement.

4. This Agreement, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable constitutional, statutory and common law of the State of Illinois.

5. The captions at the beginning of the several paragraphs, respectively, are for convenience in locating the context, but are not part of the context.

6. In the event any term or provision of this Agreement shall be held illegal, invalid, unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby, but each such term and provision shall be valid and shall remain in full force and effect.

7. This Agreement and the Exhibits attached hereto, and made a part hereof, or required hereby, embody the entire agreement between the parties hereto with respect to this transaction and supersedes any and all prior agreements and understandings, written or oral, formal or informal. No extensions, changes, modifications or amendments to or of this Agreement, of any kind whatsoever, shall be made or claimed by the parties, and no notices of any extension, change, modification or amendment made or claimed by the parties shall have any force or effect whatsoever unless the same shall be in writing and signed by their duly authorized representatives.

8. No waiver of any default shall be implied by the failure of either party to give notice of default, and no express waiver shall affect any other default except the one specified in the waiver.

9. This Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of the parties hereto.

10. Any and all notices required to be delivered hereunder shall be deemed delivered when and if personally delivered, or mailed by registered or certified mail, return receipt requested, postage prepaid (or sent by a recognized overnight courier service with instructions and payment for delivery on the next business day) to the parties as set forth below:

If to the School District: Superintendent
Glenbard Township High School District
Number 87
596 Crescent Boulevard
Glen Ellyn, Illinois 60137

With a copy to: Mr. Todd Faulkner
Franczek Sullivan P.C.
300 South Wacker Drive
Suite 3400
Chicago, Illinois 60606

If to Village: Village Manager
Village of Glen Ellyn
535 Duane
Glen Ellyn, Illinois 60137

With a copy to: Mr. Stewart H. Diamond
Ancel, Glink, Diamond, Cope & Bush, P.C.
140 South Dearborn Street
Suite 600
Chicago, Illinois 60603

If to Park District: Director
 Glen Ellyn Park District
 501 Hill Avenue
 Glen Ellyn, Illinois 60137

With a copy to: Mr. Steven B. Adams
 Brooks, Adams and Tarulis
 101 North Washington Street
 Naperville, Illinois 60540

Either party hereto may change the names and addresses of the designee to whom notice shall be sent by giving written notice of such change to the other party hereto in the same manner as all other notices are required to be delivered hereunder.

11. In the event a party institutes judicial proceedings to enforce, or for breach of, this Agreement and prevails in such suit, the opposing party shall, in addition to any other relief granted, pay the prevailing party its reasonable attorney's fees and costs related to such proceedings.

12. The School District may, at its expense, record this Agreement or a memorandum thereof with the DuPage County Recorder of Deeds.

13. This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below.

11/1/99 Execution Copy

VILLAGE OF GLEN ELLYN,
DUPAGE COUNTY, ILLINOIS

BOARD OF EDUCATION, GLENBARD
TOWNSHIP HIGH SCHOOL DISTRICT
NUMBER 87, DUPAGE COUNTY,
ILLINOIS

By: Joe E. Wark
President

By: [Signature]
President

Attest:

Attest:

Patricia O'Leary
Clerk

Katharine D'Heppel
Secretary

Dated: November 8, 1999

Dated: November 1, 1999

GLEN ELLYN PARK DISTRICT,
DUPAGE COUNTY, ILLINOIS

By: [Signature]
President

Attest:

Jeanie M. Sesto
Secretary

Date: 11-2-99

EXHIBIT A

PARCEL ONE:

LOT 17 IN COUNTY CLERK'S THIRD ASSESSMENT DIVISION, IN SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 3, 1906 AS DOCUMENT 88053, IN DUPAGE COUNTY, ILLINOIS.

PARCEL TWO:

ALL OF BLOCK 6 IN WOODTHORP, BEING A SUBDIVISION IN THE SOUTH EAST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 2, 1926 AS DOCUMENT 214660, IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT B

REAL ESTATE SALE CONTRACT

1. The VILLAGE OF GLEN ELLYN, a municipal corporation, (PURCHASER) agrees to purchase from the GLEN ELLYN PARK DISTRICT the following legally described real estate in DuPage County, Illinois:

PARCEL 1:

LOT 17 IN COUNTY CLERK'S THIRD ASSESSMENT DIVISION, IN SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 3, 1906 AS DOCUMENT 88053, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

ALL OF BLOCK 6 IN WOODTHORP, BEING A SUBDIVISION IN THE SOUTH EAST ¼ OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 2, 1926 AS DOCUMENT 214660, IN DUPAGE COUNTY, ILLINOIS.

P.I.N # 05-11-410-014

commonly known as MEMORIAL PARK located at _____ in said Village, together with two-story brick commercial building located thereon and the specific equipment and appurtenances contained therein on the date of this Contract, at a price of \$1,800,000.00 on the terms and conditions set forth herein.

2. The GLEN ELLYN PARK DISTRICT (SELLER) agrees to sell the real estate and the property described above (the "Real Estate") at the price and terms set forth herein, and to convey or cause to be conveyed title thereto to PURCHASER by a recordable quit claim deed, and a proper bill of sale, subject only to: (a) covenants, conditions and restrictions of record; (b) public and utility easements and roads and highways, if any; (c) general taxes not due and payable at the time of closing, and for subsequent years.
3. PURCHASER agrees to pay the purchase price plus or minus prorations, at the time of closing.
4. Attached hereto and made a part hereof is ALTA/ASCM survey dated May 24, 1999 made by Midwest Technical Consultants, Inc. (Michael T. Ring, P.L.S.) depicting the premises. PURCHASER has examined the survey and approves same provided that the

content of the survey is the same at time of closing. The cost of the survey shall be borne by the SELLER.

5. Attached hereto and made a part hereof is Chicago Title Insurance Company Title Commitment #1410 009900644 UL, dated February 10, 1999. PURCHASER has reviewed the commitment and approves same subject to revision at the closing date to reflect good merchantable title, subject only to exceptions described in this Contract. PURCHASER specifically acknowledges Schedule B exceptions numbers 9 and 10 (Schedule B exception letters D and E). These exceptions identify restrictions on prior deeds directing that the Real Estate shall forever be used and occupied as a public park and that the Real Estate shall be used for Park Purposes. SELLER agrees to cooperate with the PURCHASER in any reasonable efforts to remove said exceptions. In the event that the Title Insurance cannot waive or insure over Schedule B exceptions 9 and 10, then this agreement may be terminated by any party to the Intergovernmental Agreement, upon ten days advance written notice. SELLER shall bear any cost imposed by Chicago Title for insuring over Schedule B exceptions 9 and 10. The SELLER shall pay the cost of title insurance with coverage in the amount of the sale price.
6. SELLER shall furnish PURCHASER an affidavit of title in standard form and ALTA statements, in duplicate, covering the date of closing and showing title in SELLER subject only to general exceptions contained in the policy, the exceptions 9 and 10 described in paragraph 5 of this Agreement, and current real estate taxes which are marked exempt.
7. The time of closing shall be on _____ or on any other date mutually acceptable to the parties. PURCHASER may further extend the closing date by reason of title or survey exceptions unacceptable to PURCHASER in which event the time of closing shall be extended for up to thirty (30) days to provide SELLER time to remove such exceptions from the title commitment or survey or have the title insurer commit to insure PURCHASER against loss or damage that may be occasioned by such survey exceptions. Unless subsequently mutually agreed otherwise, closing shall be at the office of Chicago Title Insurance Company, Wheaton, Illinois, provided title is shown to be good pursuant to this Contract, or is otherwise accepted by PURCHASER.
8. SELLER represents and warrants to PURCHASER that the mechanical, plumbing and electrical systems in the building, together with the heating, ventilating and air conditioning systems will be in normal operating condition at the time of possession. SELLER at possession will deliver to PURCHASER existing operating manuals, drawings, schematics, plans, guarantees and service contracts relating to the building and its equipment, if any.

9. Possession of the property shall be delivered to PURCHASER on the date of closing. There shall be a pre-closing inspection of the building, the date and time to be arranged. At closing the building shall be vacant.
10. SELLER warrants that SELLER has received no notice from any governmental authority of fire, or health code or environmental violations in respect to the real estate that have not been heretofore corrected.
11. Water and other utility charges, fuels, prepaid service contracts, if any, and other similar items shall be adjusted ratably as of the time of closing.
12. PURCHASER'S obligation to close this transaction and purchase the real estate is contingent upon the Village's sale of general obligation bonds in an amount not to exceed \$1,800,000.00 dollars and the Village's entry into an agreement for deed with SCHOOL DISTRICT #87 wherein the SCHOOL DISTRICT purchases the property. The PURCHASER shall issue its bonds and enter into an agreement with the SCHOOL DISTRICT prior to closing on its purchase of the real estate, or the SELLER shall be freed of its obligations hereunder.
13. To the best of Seller's knowledge and without any further investigation, there are no known environmental defects on the property.
14. SELLER shall furnish a completed Real Estate Transfer Tax Declaration signed by the SELLER or the SELLER's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois. PURCHASER does not have a Real Estate Transfer Tax Ordinance.
15. Unless otherwise mutually agreed, this sale shall be closed through an escrow with Chicago Title and Trust Company, in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement then in use by Chicago Title and Trust Company, with such special provisions inserted in this escrow agreement as may be required to conform with this contract. Upon the creation of the escrow, anything herein to the contrary notwithstanding, payment of purchase price and delivery of deed shall be made through the escrow and this contract shall be deposited in the escrow. The cost of the escrow, closing fees, GAP undertaking and other usual and customary escrow charges shall be divided equally between the parties except for recording or other specific items chargeable to the party.
16. Time is of the essence of this Contract.
17. Each party represents to the other that it has not incurred and will not incur any liability from brokerage fees or commissions as a result of this transaction and agrees to hold the other party harmless from and against all such claims for fees or commissions purported

to be due insofar as any such claim is based upon any conversation, contact or agreement with the indemnifying party.

18. SELLER represents that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. SELLER will furnish PURCHASER at closing the Exemption Certification set forth in said Section.
19. The SELLER warrants without investigation to the PURCHASER, that the requirements of the Illinois Responsible Property Transfer Act do not apply to this transfer.
20. Any notices required or desired to be given under this Contract, shall be in writing and shall be deemed to have been given when delivered personally, on the date of confirmed facsimile transmissions, or on the date deposited in the United States Mail, certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to SELLER: GLEN ELLYN PARK DISTRICT
501 Hill Avenue
Glen Ellyn, IL 60137
Attention: Corey Atwell, Executive Director
Telephone: 630-858-2462
Facsimile: 630-

With a copy to: Brooks, Adams and Tarulis
101 N. Washington Street
Naperville, IL 60540
Attention: Steven B. Adams
Telephone: 630-355-2101
Facsimile: 630-355-7843

If to PURCHASER: VILLAGE OF GLEN ELLYN
535 Duane Street
Glen Ellyn, IL 60137-4699
Attention: Gary Webster
Village Administrator
Telephone: 630-469-5000
Facsimile: 630-469-8849

With a copy to: ANCEL, GLINK, DIAMOND, COPE & BUSH, P.C.
140 South Dearborn Street – Sixth Floor
Chicago, IL 60603
Attention: Stewart H. Diamond, Esq.
Telephone: 312-782-7606

Facsimile: 312-782-0943

21. In the event that any other action shall be required by the corporate authorities of the PURCHASER or the SELLER to bring about this transaction, the parties hereto shall promptly take such additional actions and execute any required documents. The binding effect of this provision shall survive the closing and the delivery of possession.

DATED: _____

PURCHASER:

**VILLAGE OF GLEN ELLYN,
a municipal corporation**

By: _____

Title: _____

**535 Duane Street
Glen Ellyn, IL 60137**

SELLER:

GLEN ELLYN PARK DISTRICT

By: _____

Title: _____

**501 Hill Avenue
Glen Ellyn, IL 60137**

EXHIBIT C

CONTRACT FOR DEED

**EXHIBIT C TO INTERGOVERNMENTAL AGREEMENT
BETWEEN THE VILLAGE OF GLEN ELLYN, THE GLEN ELLYN
PARK DISTRICT AND GLENBARD TOWNSHIP HIGH SCHOOL
DISTRICT NUMBER 87 REGARDING MEMORIAL PARK**

The School District shall acquire Memorial Park from the Village under the terms and conditions of the Intergovernmental Agreement and under the following contract for deed provisions:

1. **Conveyance of Title.** The Village agrees to convey title to Memorial Park, including all improvements, equipment and appurtenances, by a recordable Trustee's Deed and/or Quit Claim Deed, with the provision for release of any homestead rights, to the School District at a final closing on a date no later than ten (10) years after the effective date of this Agreement. In addition, at the time of the closing, the Village shall provide the appropriate declarations or exemption certificates in compliance with the provisions of any applicable Federal and/or State Transfer Tax Act and any county or local government transaction tax ordinance or similar applicable laws and ordinances; appropriate affidavits of title; appropriate ALTA Statements; appropriate Plat Act Affidavits; bill of sale; and any other documents deemed necessary for conveyance of title to Memorial Park.

2. **Condition of Title.** A commitment for title insurance number 1410-9900644 dated February 10, 1999, has been issued in the name of the Glen Ellyn Park District by Chicago Title Insurance Company in the amount of \$10,000.00. A title insurance policy shall

be issued in the name of the School District insuring the School District under this Contract for Deed, at the time of the initial closing, in substantial conformance with the February 10, 1999, commitment and in the amount of the purchase price, but with insurance over, or a waiver of, exceptions 9 and 10. The initial closing shall be immediately following the Village's closing with the Park District on Memorial Park, with possession to be delivered at closing. Within fifteen (15) days, but not less than five (5) days, prior to scheduled final closing, after the School District has met all its obligations under this Agreement, the Village shall cause a commitment for title insurance to be issued in the name of the School District by Chicago Title Insurance Company in the amount of the purchase price with extended coverage (hereinafter referred to as the "Commitment") covering Memorial Park. The School District shall pay the charges for obtaining such title insurance and later dated commitments. The Commitment shall show title in the Village subject only to the following (hereinafter referred to as "Permitted Title Exceptions");

- a. General real estate taxes not due and payable, if any;
- b. Zoning and building laws and ordinances and building lines;
- c. Rights of the public, State of Illinois or any municipality in and to any roads and highways over the Premises;
- d. Covenants, conditions and restrictions of record, other than exceptions 9 and 10 in the initial commitment.

- e. Rights-of-way for drainage ditches, feeders, laterals and drainage tile, pipe or conduit;
- f. Easements of record as of the date hereof or easements, the existence of which are readily ascertainable from a physical inspection of the premises, so long as such easements do not interfere with the use of Memorial Park for school purposes;
- g. Acts done or suffered by or judgments against the Village or those claimed by, through or under the Village; and
- h. The general exceptions contained in an ALTA title insurance commitment as the same may appear from time to time, except those waived due to extended coverage.

The Village is acting as a conduit in a transaction wherein title to Memorial Park is being transferred from the Park Board, through the Village to the School District. It shall be the obligation of the School District, if the commitment discloses unpermitted exceptions from the title which the Village receives from the Park Board, to cause, at its discretion, the removal of those exceptions. Except for the situation in which those exceptions are brought about as a result of an action by the Village, the Village shall have no responsibility to cause the removal of the unpermitted exceptions. If the Commitment discloses unpermitted exceptions brought about by the actions of the Village, the Village shall have thirty (30) days from the date of delivery thereof to have such exceptions removed from the Commitment or to have the title insurance company commit to insure against loss or damage that may be occasioned by such

exceptions. If at the end of the thirty-day period the Village fails to have the unpermitted exceptions removed or insured against, the School District may elect, upon notice to the Village within ten (10) days after expiration of the thirty-day period, to accept title as it then is with the right to receive funds from the Village at time of closing to cover liens or encumbrances of a definite or ascertainable amount, in which event the defined term "Permitted Title Exceptions" shall thereafter also include any title exceptions which have been accepted by the School District by the notice aforesaid. In the event that the Village cannot remove objectionable title exceptions and the School District is not willing or able to accept defective title, the School District shall be entitled to a return of all funds paid under this Agreement. This Real Estate Contract for Deed shall then become null and void.

3. Repair of Premises. The School District shall keep the buildings and improvements on the property in good repair and shall neither suffer nor commit any waste on or to the property and said buildings and improvements. If the School District fails to make any such repairs or suffers or commits waste, the Village may elect to make such repairs or eliminate such waste and the cost thereof shall become a charge to the School District. It is the intent of the Village and the School District that subsequent to the date when the Park Board vacates Memorial Park, all costs and expenses associated with the repair, maintenance, modification to and use of Memorial Park, now being used for School District purposes, shall be fully and completely the responsibility of the School District. The Village shall have no duties or obligations as the owner of Memorial Park during this period and all responsibilities

and duties of any kind shall be the responsibility of the School District with the exception of any actions brought about by the actions of the Village or its agents. It is of the essence of this Agreement that all costs associated with the improvement and occupancy of Memorial Park by the School District shall be fully and entirely the responsibility of the School District.

4. **Prohibition Against Liens and Payment of Taxes.** The School District or Village shall not suffer or permit any mechanic's lien or other lien to attach to or be against or upon any portion of Memorial Park above described which shall or may be equal or superior to the rights of the School District. If from the time that the Park Board has vacated the premises to the time of final closing there should be any taxes of any kind due and levied against Memorial Park, including taxes not payable until subsequent to the date of final closing, the School District shall either promptly pay such taxes or shall contest such taxes and pay any taxes ultimately held to be applicable to Memorial Park.

5. **Improvement of the Premises.** Every contract for repairs or improvements of Memorial Park, or any part thereof, shall contain an express, full and complete waiver and release of any and all liens or claims or rights of lien against Memorial Park. No contract or agreement shall be made by the School District or Village for repairs or improvements upon Memorial Park, unless it shall contain such express waiver or release of lien. An executed copy of every such contract and of the plans and specifications for such repairs or improvements shall be promptly delivered to and retained by the Village. All contracts for improvement of the premises shall provide that the contractor shall insure the School District and Village, as

additional named insureds, against all and every type of liability and damage that could arise out of the acts, omissions and/or negligence of the contractor in connection with the performance of the contractor's obligations and work under the contract. As improvements on the premises are made, the School District shall certify, through an individual acceptable to the Village, that work has been performed and payments are due under the Contract.

6. Survey. The School District, at the School District's expense, shall have the right to obtain a current staked boundary line survey of the property prepared by an Illinois Registered Land Surveyor and certified in the name of the School District. Said survey shall indicate any and all easements or rights-of-way affecting the property and the net acreage of the property and otherwise be sufficient for extended title insurance coverage. The cost of obtaining said survey shall be paid by the School District.

7. Representations of The Village.

a. That Village shall hold fee simple title to Memorial Park after acquisition from Glen Ellyn Park District.

b. That there are no outstanding oral or written agreements to sell Memorial Park other than to the School District, and the Village agrees to refrain from negotiating with any third parties for the sale of Memorial Park during the term of this Agreement and any extensions thereof.

c. That at final closing, title to Memorial Park shall be transferred to the School District free and clear of all existing liens, claims, encumbrances, leases and tenancies brought about by action of the Village.

d. That Memorial Park and the operation thereof for school purposes are not in violation of any applicable law, ordinance, order, regulation or code of any governmental or quasi-governmental body or agency having jurisdiction over the property.

e. That no proceeding, suit, administrative action or examination, demand or claim of any type (including, but not limited to, condemnation or eminent domain) has been instituted, contemplated or threatened against Memorial Park (or any part thereof) or which could interfere with the Village's ability to carry out its obligations hereunder, and that the Village is not aware of pending or threatened litigation, proceedings, administrative action or examination, demand or claim in which any person or entity alleges the presence, release, threat of release on or in the premises, of any spills or disposal of Hazardous Substances that have occurred or are occurring off the premises as a result of any construction on or operation and use of the premises, of the presence of equipment containing polychlorinated biphenyl ("PCB"), the presence of asbestos in use or on premises, or of the generation, transportation, storage, treatment or disposal at the premises of any "Hazardous Substance."

For the purposes of this Agreement, a "Hazardous Substance" shall be defined to include (a) the definition of hazardous waste under the Resources Conservation Recovery Act (RCRA), 42 USC Sections 6901, *et seq.*, or (b) the definition of hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC Sections 9601, *et seq.*, or (c) the definition of hazardous substance under Illinois' Environmental Protection Act (IEPA), 415 ILCS 5/1, *et seq.*, or (d) any matter giving rise to liability under any common law theory based on nuisance or strict liability, or (e) any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic materials, a hazardous or toxic substance, or other similar term by any federal, state or local environmental statute, regulation or ordinance presently in effect or that may be promulgated in the future as such statutes, regulations or ordinance may be amended from time to time through the closing. As the Village is acting as a conduit for the transference of title between the Park Board and the School District and has no independent knowledge regarding the status of environmental hazards associated with Memorial Park, the School Board agrees to fully defend and hold harmless the Village from any claim, demand or suit arising out of environmental concerns regarding Memorial Park and will pay for any costs associated with an order of a governmental body with authority over environmental matters requiring that a fine be paid or

additional work be done on Memorial Park regarding environmental defects not stated within the aforesaid environmental report. The sole exception to this comprehensive obligation of the School Board shall be any environmental defects brought about by the action of the Village.

f. That neither the Village, to the best of the Village's knowledge after making reasonable inquiry, nor any previous owner of Memorial Park nor any third party has (i) used, generated, stored, transported, treated, or disposed of any Hazardous Substance as defined above on the premises; or (ii) communicated or agreed with any governmental authority or agency (federal, state or local) or any private entity, including, but not limited to, any prior owners of the premises, relating in any way to the presence, release, placement on or in the premises, or the generation, transportation, storage, treatment or disposal at the premises of any Hazardous Substance as defined above.

g. That to the best of the Village's knowledge, no hazard presently exists or may have previously existed on the premises which would be deemed a violation of any federal, state, county or local environmental protection statute, act, ordinance or code, and that to the best of the Village's knowledge, no Hazardous Substance has been deposited on the premises.

h. That there are not presently pending any special assessments of any nature with respect to the premises or any part thereof, nor has the Village

received any notice of or become aware of any such special assessments being contemplated.

i. That the Village has not and will not, during the pendency of this Agreement, enter into any contracts, agreements or options that would affect the ability of the Village to effect the transaction contemplated herein.

j. That the Village has not received any notice from any governmental authority of any zoning, building, fire, environmental or health code violations in respect to the premises, that have not heretofore been corrected, and that the Village knows of no such violations.

k. That to the best of the Village's knowledge, no facts exist which would prevent the School District from use of Memorial Park for school and recreational purposes after occupying the same and complying with all the applicable government ordinances, orders and regulations.

l. That to the best of the Village's knowledge, gas, electric, and municipal sewer and water utility services are available to the premises.

m. That the execution, delivery of and performance under this Agreement is pursuant to authority validly and duly conferred upon the Village and the signatories hereto. The consummation of the transaction herein contemplated and the compliance by the Village with the terms of this Agreement do not and will not conflict with or result in a breach of any of the

terms or provisions of, or constitute a default under, any agreement, arrangement, understanding, accord, document or instruction by which the Village or Memorial Park are bound; and will not and does not to the best knowledge and belief of the Village, constitute a violation of any applicable law, rule, regulation, judgment, order or decree of, or agreement with, any governmental instrumentality or court, domestic or foreign, to which the Village or Memorial Park are subject or bound.

n. That all bills and invoices for labor and material of any kind contracted for or incurred by the Village or the Park District relating to the premises have been paid in full, and there are no mechanic's liens or other claims outstanding or available to any party in connection with Memorial Park, as a result of any act of the Village.

When used in this paragraph 7, the expression "to the best of the Village's knowledge," or words to that effect, is deemed to mean that the Village, after reasonable examination, investigation and inquiry is not aware of any thing, matter or the like that is contrary, negates, diminishes or varies that which such term precedes.

8. **Representations and Indemnifications of Purchaser:**

a. The School District hereby agrees to indemnify, protect and hold the Village harmless from and against any and all claims, demands, loss, cost, damage, expense or liability, including reasonable attorney's fees, caused by, resulting from, arising out of, or occurring in connection with, either the

presence of anyone on the premises at the request of the School District or any of the activities of the School District on the premises at the request of the School District or any of the activities of the School District on the premises, in regard to preparing surveys, soil tests and borings, preliminary engineering, topographical surveys, planning studies, preliminary plats of subdivision or planned unit development, or in regard to satisfying any of the contingencies set forth in this Agreement. This indemnification shall survive any termination of this Agreement.

b. The School District hereby agrees that prior to the final closing the School District shall not allow any liens or claims to be filed against the premises as a result of any acts or omissions by the School District in regard to the matter set forth in this Agreement. In the event that a lien or claim is filed against the premises or a claim made against the Village as a result of any acts or omissions of the School District, the School District hereby agrees to hold the Village harmless and indemnified in regard to said liens, claims, demands, and the cost of defending same or clearing same from title, including, but not limited to, the cost of any legal action, suit, suit to quiet title, and any reasonable attorney's fees incurred by the Village. It is agreed by and between the parties hereto that the provisions of this paragraph shall survive closing or the termination of this Agreement.

9. **Insurance on Property.** From and after delivery of possession to the School District under this Agreement, the School District shall keep the property and all buildings and improvements thereon insured specifically naming the Village as an additional named insured at the School District's expense against risks of physical loss from fire, lightening, windstorms and such other risks as are usually and ordinarily included in policies of fire insurance with extended coverage, subject to standard policy exceptions, in companies having an A+ or better under Best's directory and listed to do business in the State of Illinois, in an amount at least equal to 100% of the replacement costs of the improvements on the premises, which insurance together with all additional or substituted insurance, shall require all payments for loss to be applied to the repair and/or reconstruction of the property, buildings and improvements as necessary; except in the event that such insurance payment is made for the total loss of the buildings and improvements on the property, then payment for such loss shall be first applied to the retirement of the bonds with the overage, if any, to the School District. The School District shall deliver copies of the policies or certificates of insurance to the Village. Said insurance policies shall provide that the same may not be canceled without at least thirty (30) days written notice to the Village.

10. **Liability Insurance.** From and after delivery of possession to the School District under this contract, the School District shall maintain, at its expense, public liability insurance, including property damage, on the property in which the limits of public liability shall be not less than One Million Dollars (\$1,000,000.00) per person and Three Million

Dollars (\$3,000,000.00) per accident and which property damage liability shall not be less than Five Hundred Thousand Dollars (\$500,000.00). The Village shall be named as an additional insured on all such insurance with respect to claims arising out of any accident or occurrence on or about said premises. It shall be provided in each policy of public liability insurance that the same may not be canceled without at least thirty (30) days written notice to the Village. Copies of such policies or certificates as to such public liability insurance shall be delivered to the Village.

11. **Hold Harmless Provision.** The School District covenants and agrees that it will protect, defend, indemnify, save and hold harmless the Village, its trustees, agents, officers and/or employees from and against any and all claims, liability, loss, costs, damage, penalties, charges and expenses, including but not limited to attorneys' fees and expenses of investigation and/or litigation, which arise from or in any manner grow out of any accident or occurrence on or about said premises except the acts, omissions and/or negligence of the Village, its trustees, agents, officers and/or employees. The Village covenants and agrees that it will protect, defend, indemnify, save and hold harmless the School District from the acts, omissions and/or negligence of the Village, its trustees, agents, officers and/or employees which arise from or in any manner grow out of any accident or occurrence on or about Memorial Park.

12. **Utility Expenses.** The School District shall pay all utility expenses incurred from the date of delivery of possession.

13. **Assignability.** This Agreement shall not be assigned by the School District without the prior written consent of the Village.

14. **Real Estate Broker.** The Village and the School District represent and warrant to each other that no other real estate broker or agent has been involved in this transaction.

15. **Eminent Domain Proceedings.** In the event that prior to the delivery of a deed conveying Memorial Park from the Village to the School District, any eminent domain proceedings are initiated which might result in the taking of Memorial Park or any part of the premises, or if the Village or School District receives written notice from a governmental or quasi governmental authority with statutory authority to initiate eminent domain proceedings, which states that such an action is contemplated, the Village shall immediately deed Memorial Park to the School District with all of the Village's right, title and interest with the funds due and owing under the Bonds being an irrevocable first lien on all eminent domain proceeds received by the School District from the taking of Memorial Park.

The Village and School District agree and covenant not to use their eminent domain authority against the Premises during the term of this Agreement. This covenant not to condemn Memorial Park runs to the successors and/or assigns and extends until Memorial Park is properly deeded to the School District.

16. **Contract Payments.** The payments due under this contract shall be paid in the amount and in the manner set forth in Paragraph A.3. of an "Intergovernmental Cooperation Agreement Between the Village of Glen Ellyn, the Glen Ellyn Park District and Glenbard

Township High School District 87 for the Disposition and Joint Use of Park and School Facilities Within the Village of Glen Ellyn” dated November __, 1999, which agreement is incorporated in its entirety into the provisions of this Contract For Deed and where its terms shall supersede any provisions herein with which it is in conflict. The obligation of the School District to make payments to the Village, so that the Village may abate taxes otherwise required for the payment of the General Obligation Bond Issue pursuant to the intergovernmental agreement, shall be the responsibility of the School District without regard to its ability to utilize Memorial Park for any reason including its destruction through fire or casualty. In the event that the Village should default under any of its obligations provided for herein, the School District may bring a lawsuit against the Village to seek whatever remedy is required, but its responsibility to make payments shall continue unabated, independent of any other facts, until the obligations of payment under the Village’s General Obligation Bond Issue have been fully fulfilled.

17. **Other Actions.** In the event that the actions taken by the Village or the School District are for some reason held to be inadequate to bring about the matters set forth within this Agreement, the parties shall, in good faith, take such other actions as shall be lawful to cause the accomplishment of the property transfer to the School District and the payment of funds to the Village to allow it to repay the Village’s General Obligation Bond Issue and to accomplish the indemnification and hold harmless provisions set forth herein. The obligation

of the parties shall include the responsibility to execute documents, if such documents are lawfully required to substitute for commitments otherwise made in this agreement.

18. **Default.** In addition to the rights of the Village to secure the obligation of the School District to make payments as are set forth in Paragraph A.3. of the Intergovernmental Agreement between the Village, the Park Board and the School Board, the Village, in the event of a default under this Contract for Deed, may exercise all rights and remedies available at law or in equity, including, without limitation, injunctive relief, and may seek to gain possession of Memorial Park. In exercising its rights and seeking remedies, however, the Village shall be required to comply with any notice requirements or other procedures required by law for the recovery of the premises sold under a contract for deed.

19. **Severability.** In the event any provision of this Agreement or the application of any such provision to any state of facts shall be declared to be illegal, unenforceable or contrary to the public policy, then such provision or application, as the case may be, shall be null and void, but this Agreement, with such provision severed, shall continue in full force and effect as to all other provisions.

20. **RESPA.** The Park Board has certified to the Village that disclosure under the Real Estate Settlement Procedures Act of 1974 is not applicable to the transfer of title from Memorial Park Board to the Village and the School District hereby accepts that determination.

21. **Time.** Time is of the essence of this Agreement.

22. Survival of Warranties. The terms, provisions, warranties and covenants made herein, shall survive the closing and delivery of the deeds and other instruments of conveyance, and this Agreement shall not be merged therein, but shall remain binding upon and for the parties hereto until fully observed, kept or performed.

EXHIBIT D

**ANTICIPATED USES OF GLENBARD WEST AND GLENBARD SOUTH FACILITIES
BY
GLEN ELLYN PARK DISTRICT**

GLENBARD WEST

Auditorium

Spring/Summer Dance Recital

Biester Gymnasium & Memorial Park

Summer Sports Camp: The Sports Camps are co-sponsored by the Park District, to facilitate the School District's Illinois High School Association compliance. Such Camps will not be applied to determine achievement of the balance and equity principles of this Agreement. The Camps are instructed by the high school coaches. The coaches use the gymnasium/weight room for basketball, softball, volleyball, wrestling, strength training, football workouts, etc.

Summer Tennis Lessons

Fall/Winter/Spring Anticipated uses upon completion of expansion include youth/adult basketball, volleyball, wrestling, track, soccer and fitness programs

Duchon Field

Fall Youth Football Program; occasional Sundays (six hours each day), no less than five

GLENBARD SOUTH

Fall/Winter/Spring Gymnastics room as needed

Summer Use of track and field area as needed on Sundays in June

EXHIBIT E

**ANTICIPATED USES OF GLEN ELLYN PARK DISTRICT FACILITIES
BY
GLENBARD HIGH SCHOOL DISTRICT 87**

Ackerman Park

Fall Season: Boys soccer practice daily, occasional Saturday games
Spring Season: Softball practice/games daily and Saturdays; Girls soccer practice daily, occasional weekday and Saturday games

George Ball Park

Fall Season: Tennis practice daily, girls tennis
Tennis meets per schedule
Spring Season: Tennis practice daily, boys tennis
Tennis meets per schedule

Newton Park

Fall Season: Boys and girls cross country practice, daily
Cross country meets per schedule
Football practice daily (1 team); Saturday games
Spring Season: As needed for boys and girls track practices

Maryknoll

Fall/Spring Seasons: Anticipated uses include softball and soccer