

## INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT, dated as of June \_\_\_\_, 2013 (the “**Agreement**”), is entered into by the CITY OF GENESEO, HENRY COUNTY, ILLINOIS (“**City**”), GENESEO UNIT SCHOOL DISTRICT #228 (“**District #228**”), GENESEO TOWNSHIP (“**Township**”), GENESEO ROAD DISTRICT (“**Road District**”), GENESEO PARK DISTRICT (“**Park District**”), GENESEO LIBRARY DISTRICT (“**Library District**”), HAMMOND HENRY HOSPITAL DISTRICT (“**HOSPITAL**”) AND THE GENESEO FIRE DISTRICT (“**Fire District**”), and collectively the “**Local Governments**”).

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, the Districts agree as follows:

### Section 1. BACKGROUND.

A. The City, School District 228, Township, Road District, Park District, Library District, Hospital, and Fire District are duly constituted and existing units of local government within the meaning of Section 1 and Section 10 of Article VII of the 1970 Constitution of the State of Illinois (“**1970 Illinois Constitution**”), each operating under applicable provisions of the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, Illinois School Code, 105 ILCS 5/1-1 *et seq.*, Illinois Township Code, 60 ILCS 1/1-1 *et seq.*, Illinois Park District Code, 70 ILCS 1205/1-1 *et seq.*, Illinois Public Library District Act, 75 ILCS 16/1-1 *et seq.* Illinois Hospital District Act, 70 ILCS 910/1 *et seq.*, Illinois Fire Protection District Act 70 ILCS 705/0.01 *et seq.*

B. Section 10 of Article VII of the 1970 Illinois Constitution authorizes the Local Governments to contract or otherwise associate among themselves to obtain or share services and to exercise, combine or transfer any power or function, in any manner not prohibited by law or ordinance. Under Section 10, the Local Governments may use their credit, revenues and other resources to pay costs and to service debt related to intergovernmental activities.

C. The Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* (“**Cooperation Act**”), provides that any power or powers, privileges, functions, or authority exercised or which may be exercised by any “public agency” of the State of Illinois may be exercised, combined, transferred, and enjoyed jointly with any other public agency except where specifically and expressly prohibited by law. Under the Cooperation Act, the term “public agency” includes any “unit of local government” as defined in the 1970 Illinois Constitution and school districts.

D. The Local Governments benefit from the increase in the equalized assessed value of property within their respective taxing jurisdictions. Increased equalized assessed valuation of real property increases available revenues for the Local Governments, enabling each to expand and improve their respective services to their constituents.

E. Maple Leaf Farm, L.L.C., an Illinois limited liability company (“**Developer**”), proposes to develop a 244 unit single family subdivision on the approximately 121.10 acre property legally described in **Exhibit A** attached to and, by this reference, made a part of this Agreement (“**Subdivision**”). The development of the Subdivision will significantly increase the equalized assessed valuation of property within the taxing jurisdictions of the Local

Governments, generating significant revenues for the Local Governments, enabling each to expand and improve their respective services to their constituents.

F. The Illinois Department of Transportation (“*IDOT*”) has determined that a right turn lane is necessary for the public safety of the residents of the Subdivision. The Developer has requested and the Local Governments have agreed to assist in sharing in the costs for the construction of the right turn lane.

G. The Local Governments, pursuant to their respective authority under the 1970 Illinois Constitution and Cooperation Act, desire to enter into this Agreement to establish the terms for contributing to and sharing with the Developer the costs for constructing the right turn lane.

## Section 2. CONSTRUCTION FINANCING; REPORTING REQUIREMENTS.

A. Developer will obtain standard construction financing (“*Bank Loan*”) for the construction of the right turn lane in the amount of \$\_\_\_\_\_ from a bank (i) having capital resources of at least \$50,000,000.00, (ii) with an office located within 15 miles of the City of Geneseo, County of Henry, Illinois, and (iii) insured by the Federal Deposit Insurance Corporation.

B. The City, without the participation of the other Local Governments, will guarantee 50% of the Bank Loan in an amount not to exceed \$300,000.00. The City, without the participation of the other Local Governments, will pay 50% of the interest accrued in the first year of the Bank Loan in an amount not to exceed \$15,000.00.

C. The Local Governments will pledge their pro rata share of property taxes accrued for each home for which a building permit was issued between January 1, 2014 and December 31, 2023, for a period not exceeding seven years, to the bank issuing the Bank Loan for the payment of principal and interest on only the loan to the Developer for the construction of the right turn lane only. Any property taxes derived from a home for which a building permit has been issued on or after January 1, 2024 will not be included under the terms of this Subsection 2.C. In no event will the cumulative total of property taxes pledged under this Agreement by the Local Governments exceed \$600,000.00, plus interest accrued under the terms of the Bank Loan for the period between January 1, 2014 and December 31, 2023; provided, however, that the Local Governments liability for interest payments will not exceed 5% annually for the period between January 1, 2014 and December 31, 2023 regardless of whether the terms of Bank Loan set an interest rate that exceeds 5% annually.

D. The City will, within one month after property tax bills are issued by Henry County for homes constructed and occupied in the Subdivision as of the dates established in Subsection 2.C of this Agreement, prepare and issue a report to each of the other Local Governments that will summarize the pro rata share of property taxes each Local Government owes that must be sent to the bank issuing the Bank Loan. At the request of a Local Government, not more than five business days after receipt by a Local Government of the City report, the City will meet with that Local Government to explain the calculation of the property taxes due and owing pursuant to this Agreement. Failure of a Local Government to make a

timely request for such a meeting with the City as provided in this Subsection 2.D will waive a Local Government's right to any such meeting. The Local Governments must submit their share of property taxes to bank issuing the Bank Loan no later than 60 days after the date the last payment of property taxes are due.

E. The bank issuing the Bank Loan will advise the Local Governments of the payments made, the amount applied to interest and principal and the remaining balance by November 30 of each year. In the event of an overpayment, the bank issuing the Bank Loan will refund to each Local Government's pro-rata share of property taxes as determined by the City report issued pursuant to Subsection 2.D of this Agreement for the year of over payment.

### Section 3. TERMINATION OF AGREEMENT; WAIVER.

A. This Agreement will terminate on the earliest to occur of the following:

1. December 31, 2030; or
2. The date on which the bank issuing the Bank Loan declares the loan for the right turn lane is paid in full; or
3. The date on which any Local Government that is a party to this Agreement approves or takes action, directly or indirectly through others, to contest in any court of law, the failure by the Developer to undertake any responsibility, obligation, or covenant as provided in that certain development agreement that will be entered between the Developer and the City and that will be recorded in the Office of the Henry County Recorder against the property that the Subdivision will be developed on.

B. The Local Governments will forever waive any right each may possess to challenge the terms of this Agreement, in law or at equity, for any reason whatsoever, including, without limitation, the constitutional and statutory authority under which this Agreement is established or the procedures followed in connection with the adoption of this Agreement.

### Section 4. MISCELLANEOUS.

A. Notice. Any notice or communication required or permitted to be given under this Agreement will be in writing and will be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) electronic mail ("*e-mail*"). Facsimile notices will be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid only to the extent that they are (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise provided in this Agreement, notices will be deemed received after the first to occur of (a) the date of actual receipt; or (b) the date that is one (1) business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (b) the date that is three (3) business days after deposit in the U.S. mail, as evidenced by a

return receipt. By notice complying with the requirements of this Section 6.A, each party to this Agreement shall have the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address shall be effective until actually received.

Notices to the City will be sent to:

City Administrator  
City of Geneseo  
115 South Oakwood Avenue  
Geneseo, Illinois 61254

With a copy to:

Ancel Glink et. al.  
140 South Dearborn Street  
6<sup>th</sup> Floor  
Chicago, IL 60603  
ATTN: David S. Silverman  
Fax: 312.782.0943  
E-mail: dsilverman@ancelglink.com

Notices to Geneseo Unit School District #228 shall be sent to:

Superintendent  
Geneseo Unit School District #228  
648 North Chicago Street  
Geneseo, Illinois 61254

Notices to Geneseo Township and Geneseo Road District shall be sent to:

Township Supervisor  
Geneseo Township  
690 South Chicago Street  
Geneseo, Illinois 61254

Notices to Geneseo Park District shall be sent to:

Executive Director  
Geneseo Park District  
541 East North Street  
Geneseo, Illinois 61254

Notices to Geneseo Library District shall be sent to:

Head Librarian  
Geneseo Public Library

805 North Chicago Street  
Geneseo, Illinois 61254

Notice to Hammond Henry Hospital District shall be sent to:

Chief Executive Officer  
Hammond Henry Hospital  
600 North College Avenue  
Geneseo, IL 61254

Notices to the Geneseo Fire Protection District shall be sent to:

President of the Board  
Geneseo Fire Protection District  
209 South Oakwood Avenue  
Geneseo, IL 61254

B. Time of the Essence. Time is of the essence in the performance of this Agreement.

C. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

D. Non-Severability. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the entire remainder of this Agreement shall, thereafter, be null and void and of no further force and effect, it being the intent of the parties that all of the provisions of this Agreement be treated as an individual whole.

E. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supercedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

F. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

G. Amendments and Modifications. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

H. Authority to Execute. Each Local Government hereby warrants and represents to the other Local Governments that the Persons executing this Agreement on its behalf have been properly authorized to do so by their respective Corporate Authorities.

I. Counterparts. This Agreement may be executed in counterpart, each of which shall constitute an original document, which together shall constitute one and the same instrument.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by a duly authorized officer.

CITY OF GENESEO, HENRY, COUNTY,  
ILLINOIS

By: \_\_\_\_\_  
Mayor

[SEAL]

Attest:

\_\_\_\_\_  
City Clerk

GENESEO UNIT SCHOOL DISTRICT #228

By: \_\_\_\_\_  
President of the Board of Education

[SEAL]

Attest: \_\_\_\_\_  
Secretary of the Board of Education

GENESEO TOWNSHIP

By: \_\_\_\_\_  
Township Supervisor

[SEAL]

Attest: \_\_\_\_\_  
Township Secretary

GENESEO ROAD DISTRICT

By: \_\_\_\_\_  
Township Supervisor

[SEAL]

Attest: \_\_\_\_\_  
Township Secretary

GENESEO PARK DISTRICT

By: \_\_\_\_\_  
President of the Board

[SEAL]

Attest: \_\_\_\_\_  
Secretary of the Board

Geneseo Library District

By: \_\_\_\_\_  
President of the Board

[SEAL]

Attest: \_\_\_\_\_  
Secretary of the Board

Hammond Henry Hospital

By: \_\_\_\_\_  
Chief Executive Officer

[SEAL]

Attest: \_\_\_\_\_  
Secretary

Geneseo Fire Protection District

By: \_\_\_\_\_  
President of the Board

[SEAL]

Attest: \_\_\_\_\_  
Secretary of the Board



## **EXHIBIT A**

### Property Legal Description

#### **WESTERN PARCEL**

W717 LOT 3 NE NW & W717 OF N285, EX 1.15A SW COR & EX 1.18A SE COR, LOT 8 SE NW SEC 16 T17N R3E LANDS INCORP

#### **MIDDLE PARCEL**

E PT LT 3 NE NW & W1/2 LT 2 NW NE SEC 16 T17N R3E LANDS INCORP

#### **EASTERN PARCEL**

E1/2 LT 2 NW NE & LT 1, EX 2A, NE NE, EX HWY, SEC 16 T17N R3E LANDS INCORP