

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

May 2, 2011

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: Cost Savings Intergovernmental Agreement

The Grayslake articulation group has been discussing ways for our districts to share equipment when possible in order to save money in rentals. In order to limit the liability issue, the firm of Sraga Hauser put together an intergovernmental agreement that any of us can sign. If we approve this, we will be able to borrow equipment from other districts who use this agreement and save the rental costs. Some equipment may be larger trucks or portable bleachers, for example. I have attached the documentation pertaining to this agreement for your perusal and ask that you consider this as a cost savings option.

We would ask you to put this on the consent agenda for the next meeting if you are interested in participation.

# **Lake County School Districts Intergovernmental Agreement**

Re: Cost Savings Intergovernmental Agreement

Attached please find an Intergovernmental agreement for Lake County Area public school districts. This agreement will allow your district, and other district's that adopt this resolution, to share the use of equipment as a method of cost savings.

The attorney firm of Sraga Hauser, at the request of the Lake County School Facility Manager Group who wished to borrow equipment from fellow public schools, but also wish to formally gain approval of their Boards of Education, crafted the agreement. This intergovernmental agreement was put together with intent to limit any liability that may occur through the loaning of equipment, similar to the waivers your staff would sign if they rented equipment.

This Intergovernmental Agreement has been shared with area Superintendents in Lake County and Business Officials, and is now being brought to your attention as a way to save public money.

Please take a moment to review the document; formal Board approval is required between any of the school districts that wish to share equipment within this agreement.

If you have any questions, please feel free to contact:

Don Selzer

Director of Facilities and Grounds

Woodland School District #50

[dselzer@dist50.net](mailto:dselzer@dist50.net)

**INTERGOVERNMENTAL AGREEMENT FOR  
LAKE COUNTY AREA SCHOOL DISTRICTS'  
SHARING OF EQUIPMENT**

WHEREAS, the school districts participating in this agreement wish to save costs by pooling their resources with other school districts;

WHEREAS, school districts are authorized to share the use of equipment with other school districts through their powers to contract intergovernmentally pursuant to Article VII, Section of the Illinois Constitution of 1970, Sections 3 and 5 of the Intergovernmental Cooperation Act (5 ILCS 220/3 and 5), and Section 10-20 of the Illinois School Code (105 ILCS 5/10-20);

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties to this Agreement agree as follows:

1. **DEFINITIONS.** As used herein, unless the context indicates otherwise or unless specifically defined otherwise, the following terms shall be accorded the meanings as indicated:

1.1 **Party.** An Illinois school district or its board of education which has approved this Intergovernmental Agreement and lawfully executed it without withdrawing from this Intergovernmental Agreement pursuant to its terms for proper withdrawal.

1.2 **Equipment.** An item of unaffixed personal property used for property construction, assembly, improvement, maintenance, custody, repair, disassembly, or removal, and not for the direct delivery of educational services, and which is made available for use under this Agreement by the

action of the Superintendent or Superintendent's designee of the school district which owns the equipment.

1.3 **Equipment Usage Agreement.** An agreement substantially in the form of the attached Exhibit A and entered into pursuant to the authority of this Intergovernmental Agreement.

2. **INTENT.** It is the intention of the parties to establish a system by which Lake County, Illinois, area school districts may save costs by sharing equipment with each other under the terms contained herein.

3. **TERM.** This Intergovernmental Agreement shall take effect and shall remain in effect as long as two or more school districts are party to it.

4. **APPROVAL AND WITHDRAWAL.** Approval of this Intergovernmental Agreement must be by majority vote of a school district's board of education. To properly withdraw, a party must provide each other party with thirty (30) days written notice of its intent to vote on withdrawal, followed by a majority vote of its board of education to withdraw, with written notice to each other party of that action, to become effective at the next occurring end of its fiscal year.

5. **EQUIPMENT USAGE AGREEMENTS.** Any two parties may enter into any number of Equipment Usage Agreements and shall abide by such agreements' terms. Withdrawal from this Intergovernmental Agreement shall not end any of a school district's obligations, including but not limited to obligations to repair, indemnify, or insure, arising from any Equipment Usage Agreement entered into by that school district while a party to this Intergovernmental Agreement.

6. **EQUIPMENT DESIGNATION.** Each party shall endeavor to make as much of the equipment it owns available for usage by other parties through Equipment Usage Agreements. However, no party is obligated to make any particular equipment available for usage where doing so would materially interfere with that party's own use of the equipment or the delivery of school district's services or where the equipment has been scheduled for repair or replacement.

7. **ADMINISTRATIVE AUTHORITY.** By approving this Intergovernmental Agreement, each party hereby authorizes and directs its Superintendent or that Superintendent's express designee to perform the following functions to the extent permitted by law: (1) to execute any number of Equipment Usage Agreements with another party on behalf of the Superintendent's school district; (2) to designate or withdraw designation of equipment available for usage through an Equipment Usage Agreement; (3) to issue and receive any notices on behalf of the Superintendent's school district relative to this Intergovernmental Agreement or any particular Equipment Usage Agreement; (4) to perform or cause to be performed all acts necessary to keep the Superintendent's school district in compliance with any Equipment Usage Agreement; and (5) to maintain an up-to-date record of all parties, a list of school district equipment available for sharing under this Agreement, and the status of all Equipment Usage Agreements entered into by that school district, each of which shall be timely made available to any other party upon reasonable request.

8. **MISCELLANEOUS PROVISIONS**

8.1 **Authority.** Each party warrants to the others that it is authorized to execute, deliver and perform this Intergovernmental Agreement and each Equipment Usage Agreement entered pursuant to it. Each party warrants to the others that

execution, delivery and performance of such agreements does not constitute a breach or violation of any other agreement, undertaking, law or ordinance by which that party is bound. Each individual signing this Agreement or any Equipment Use Agreement on behalf of a party warrants to the other party that such individual is authorized to so execute in the name of the party on whose behalf he or she executes it.

**8.2 Binding Effect.** This Intergovernmental Agreement and each Equipment Use Agreement shall be binding on the parties and their respective successors. It may not be assigned.

**8.3 Severability.** If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement and, to that end, all provision, covenants, agreements or portions of this Agreement are declared to be severable.

**8.4 Further Acts.** Each party shall, at the request and expense of the other, execute and deliver any further documents and do all acts and things as that party may reasonably require to carry out the true intent and meaning of this Agreement.

**8.5 Governing Law.** This Agreement is governed by and shall be interpreted and enforced in accordance with the laws of the State of Illinois.

**8.6 Waivers and Modifications.** No waiver of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed 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. This Agreement shall not in any other way be modified except in writing signed by all parties.

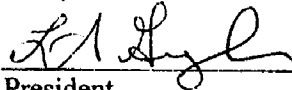
**8.7 Notices.** Any notice, payment, request, instruction, or other document to be delivered hereunder shall be deemed sufficiently given if in writing and delivered personally or mailed by certified mail, postage prepaid, to the Superintendent of the party to whom the notice is due.

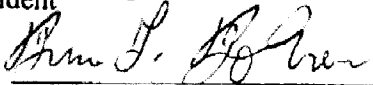
**8.8 Entire Agreement.** This Agreement, including by reference the provisions of the Equipment Usage Agreement, expresses the complete and final understanding of the parties with respect to its subject matter.

**8.9 Execution.** This Agreement may be executed in duplicate counterparts, each of which shall be as effective as the others upon approval and execution.

IN WITNESS WHEREOF, the parties each have executed this Intergovernmental Agreement on the dates indicated by each signature.

BOARD OF EDUCATION, WOODLAND  
COMMUNITY CONSOLIDATED  
SCHOOL DISTRICT NO. 50, LAKE  
COUNTY, ILLINOIS

BY:   
President

ATTEST:   
Secretary

DATE: January 27, 2011

BOARD OF EDUCATION,  
SCHOOL DISTRICT NO. \_\_\_\_\_, LAKE  
COUNTY, ILLINOIS

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_, 20\_\_\_\_

BOARD OF EDUCATION,  
\_\_\_\_\_ SCHOOL  
DISTRICT NO. \_\_\_\_\_, LAKE COUNTY,  
ILLINOIS

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_, 20\_\_

BOARD OF EDUCATION,  
\_\_\_\_\_ SCHOOL  
DISTRICT NO. \_\_\_\_\_, LAKE COUNTY,  
ILLINOIS

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_, 20\_\_

BOARD OF EDUCATION,  
\_\_\_\_\_ SCHOOL  
DISTRICT NO. \_\_\_\_\_, LAKE COUNTY,  
ILLINOIS

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_, 20\_\_

BOARD OF EDUCATION,  
\_\_\_\_\_ SCHOOL  
DISTRICT NO. \_\_\_\_\_, LAKE COUNTY,  
ILLINOIS

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_, 20\_\_



**EXHIBIT A**

**EQUIPMENT USAGE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ School District No. \_\_\_\_ (hereafter called the Lender), and \_\_\_\_\_ School District No. \_\_\_\_ (hereafter called the Borrower).

Borrower and Lendor, for the consideration hereafter named, and pursuant to the Intergovernmental Agreement for Lake County Area School Districts' Sharing of Equipment to which both Borrower and Lender are parties, agree as follows:

Under the General Conditions attached to this sheet, which General Conditions are incorporated herein, Lender hereby lends to Borrower all equipment named and identified in the following "List of Equipment," for use at such location and for approximately such time as is therein stated.

**LIST OF EQUIPMENT**

Description of equipment (make/model)	Equipment to be Used at or Near	Approximate Usage Period

Lender and Borrower, for themselves, their successors, executors, administrators and assigns, agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF, they have executed this Agreement the day and year first above written:

\_\_\_\_\_ School District \_\_\_\_, Lender

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

\_\_\_\_\_ School District \_\_\_\_, Borrower

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

## GENERAL CONDITIONS OF EQUIPMENT USAGE AGREEMENT

The conditions here below stated, together with the Agreement set forth on the reverse side of this sheet, constitute a contract between the parties therein named which contract is hereafter referred to as "this Agreement".

1) **USAGE PERIOD.** The usage period shall cover all time consumed in transporting the equipment, including the date of legal delivery to a public carrier for transit to Borrower and upon return of the equipment, the date of legal delivery by such carrier to Lender, or if no public carrier is used, shall include the date upon which transit to Borrower begins and the date upon which transit from Borrower ends at Lender's unloading point.

2) **MAINTENANCE AND OPERATION.** Borrower shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon the equipment, and shall see that the equipment is not subjected to careless, unusually or needlessly rough usage; and Borrower shall at its own expense maintain the equipment and its appurtenances in good repair and operative condition, and return it in such condition to Lender, ordinary wear and tear resulting from proper use thereof alone expected.

3) **REPAIRS.** The expense of all repairs made during the Usage Period, including labor, material, parts and other items shall be paid by Borrower.

4) **DISCLAIMER OF WARRANTIES.** LENDER, BEING NEITHER THE MANUFACTURER, NOR A SUPPLIER, NOR A DEALER IN THE EQUIPMENT, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, ITS DESIGN, ITS CAPACITY, ITS PERFORMANCE, ITS MATERIAL, ITS WORKMANSHIP, ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR THAT IT WILL MEET THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS, OR CONTRACTS WHICH PROVIDE FOR SPECIFIC APPARATUS OR SPECIAL METHODS. LENDER FURTHER DISCLAIMS ANY LIABILITY WHATSOEVER FOR LOSS, DAMAGE, OR INJURY TO BORROWER OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE EQUIPMENT. AS TO LENDER, BORROWER ACCEPTS FOR USAGE THE EQUIPMENT "AS IS". LENDER SHALL NOT BE LIABLE IN ANY EVENT TO BORROWER FOR ANY LOSS, DELAY, OR DAMAGE OF ANY KIND OR CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, EQUIPMENT HEREBY LENT OR ACCIDENTAL BREAKAGE THEREOF.

5) **INDEMNITY.** Borrower shall indemnify Lender against, and hold Lender harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorneys fees, arising out of, connected with, or resulting from the equipment or the Equipment Usage Agreement, including without limitation, the manufacture, selection, delivery, leasing, renting, control, possession, use, operation, maintenance or return of the equipment. Borrower shall further indemnify Lender, and hold Lender harmless from all loss and damage to the equipment during the usage period. Borrower recognizes and agrees that included in this indemnity clause, but not by way of limitation, is Borrower's assumption of any and all liability for injury: disability and death of workmen and other persons caused by the operation, use, control, handling, or transportation of the equipment during the Usage Period.

6) **RISK OF LOSS.** Borrower, and not Lender, shall be responsible for loss or damage to the equipment, ordinary wear and tear excepted, occurring while said equipment is in Borrower's care, custody, or physical control. Borrower is encouraged to obtain appropriate equipment, material, or installation floater insurance against such risk of loss. Borrower and its insurers waive all rights of subrogation against Lender for such losses.

7) **INSPECTION: CONCLUSIVE PRESUMPTIONS.** Borrower shall inspect the equipment prior to receipt thereof. Unless Borrower notifies Lender, specifying any defect in or other proper objection to the equipment, Borrower agrees that it shall be conclusively presumed, as between Lender and Borrower, that Borrower has fully inspected and acknowledged that the equipment is in full compliance with the terms of this agreement, in good condition and repair, and that Borrower is satisfied with and has accepted the equipment in such good condition and repair. Lender shall have the right at any time to enter the premises occupied by the equipment and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.

8) **INSURANCE.** Borrower shall keep the equipment insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof; and shall carry public liability and property damage insurance covering the equipment and its operation and handling for the amount of at least Five Hundred Thousand Dollars (\$500,000.00) or other reasonable amount specified by Lender. Borrower shall pay the premiums and any deductible portions therefore and deliver said policies, or duplicates thereof, to Lender.

9) **OWNERSHIP.** Lender shall at all times retain ownership and title of the equipment. Borrower shall give Lender immediate notice in the event that any of said equipment is levied upon or is about to become liable or is threatened with seizure, and Borrower shall indemnify Lender against all loss and damages caused by such action.

10) **NO SUBLETTING ASSIGNMENT.** No equipment shall be sublet by Borrower, nor shall Borrower assign or transfer any interest in this Agreement without written consent of Lender. Subject to the foregoing, this Agreement inures to the benefit of, and is binding upon, the heirs, successors, and assigns of the parties hereto.

11) **ENTIRE AGREEMENT.** This instrument, together with the Intergovernmental Agreement for Lake County School Districts' Sharing of Equipment, constitutes the entire agreement between Lender and Borrower; and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.