

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

ACTION ITEM

November 23, 2009

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: Public Auction

Proposed Action by the Board of Education

Approve the resolution for the public auction of the Hockaday School site as attached.

Background

Attached you will see a resolution drafted by our attorneys for the public auction of the Hockaday School site. Once the resolution is passed, and it needs to pass by 2/3, we will publish a notice once a week for three weeks in the Daily Herald. We will schedule the sale and have the auction the week of January 4<sup>th</sup>, 2010. Lori Martin of Hodges, Loizzi, Eisenhammer, Rodick, and Kohn will be running it.

**RESOLUTION OF THE  
BOARD OF EDUCATION OF  
MILLBURN COMMUNITY CONSOLIDATED SCHOOL DISTRICT NO. 24  
LAKE COUNTY, ILLINOIS  
AUTHORIZING SALE OF REAL PROPERTY**

**WHEREAS**, the Board of Education of Millburn Community Consolidated School District No. 24, Lake County, Illinois (“Board”), utilizes the real property commonly known as the Hockaday School Site; and

**WHEREAS**, the legal description of said property is set forth in Exhibit A and attached hereto and made a part hereof (“Real Estate”); and

**WHEREAS**, the Board has determined, pursuant to Section 10-22.13 of the *School Code* (105 ILCS 5/10-22.13), that the Real Estate has become unnecessary, unsuitable and inconvenient for the uses of the School District; and

**WHEREAS**, the Board has determined, by two-thirds vote of its members, that it is in the best interests of the School District to sell the Real Estate in accordance with Section 5-22 of the *School Code* (105 ILCS 5/5-22).

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Education of Millburn Community Consolidated School District No. 24, Lake County, Illinois, as follows:

- Section 1:** The Board hereby finds and declares that the Real Estate is unnecessary, unsuitable, and inconvenient for the uses of the School District.
- Section 2:** The Board hereby determines that it is in the best interests of the School District to sell the Real Estate at public sale, by auction, subject to the Terms and Conditions of Sale as set forth in Exhibit B, attached hereto and made a part hereof, and to publish notice of public sale in accordance with the provisions of Section 5-22 of the *School Code* (105 ILCS 5/5-22), as set forth on the Notice of Public Sale as set forth in Exhibit C, attached hereto and made a part hereof.
- Section 3:** The public sale shall take place within sixty (60) days of the date the Board approves this Resolution.
- Section 4:** The Superintendent of the School District and the Board President are hereby authorized to sign such documents on behalf of the Board as are necessary to complete the sale of the Real Estate.
- Section 5:** This Resolution shall be in full force and effect forthwith upon its passage and any and all resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**ADOPTED** this 23rd day of November, 2009, by at least two-thirds of its members, in the following roll call vote:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

**BOARD OF EDUCATION OF  
MILLBURN COMMUNITY  
CONSOLIDATED SCHOOL DISTRICT NO. 24  
LAKE COUNTY, ILLINOIS**

**By:** \_\_\_\_\_  
**Its:** President

**ATTEST:**

**By:** \_\_\_\_\_  
**Its:** Secretary

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

THAT PART OF THE NORTH EAST QUARTER OF SECTION 31, TOWNSHIP 46 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING ON THE SOUTH LINE OF THE NORTH EAST QUARTER AT A POINT 4.63 CHAINS, EAST OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH AT RIGHT ANGLES TO SAID SOUTH LINE, 2.57 CHAINS, TO THE CENTER LINE OF PUBLIC HIGHWAY; THENCE SOUTHEASTERLY ALONG CENTER LINE OF SAID HIGHWAY, 2.16 CHAINS TO A LINE 132 FEET EAST OF THE WEST LINE OF THIS DESCRIBED PARCEL; THENCE SOUTH PARALLEL WITH SAID WEST LINE, 1.77 CHAINS, TO AFORESAID, SOUTH LINE OF THE NORTHEAST QUARTER; THENCE WEST ALONG SAID SOUTH LINE, 2 CHAINS TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS (EXCEPT THEREFROM THAT PART OF THE LAND TAKEN OR USED FOR MILBURN ROAD).

## **EXHIBIT B**

### **TERMS AND CONDITIONS OF SALE**

The unimproved real estate commonly known as the Hockaday School Site (“Real Estate”) shall be sold at a public sale on the following terms:

**A. MINIMUM PURCHASE PRICE**

The successful bid shall be no less than \$500.00.

**B. BID QUALIFICATIONS**

A prospective bidder must submit a certified or cashier’s check, or an equivalent, payable to the Board of Education of Millburn Community Consolidated School District No. 24, Lake County, Illinois (“Board”), in the sum of the greater of ten percent (10%) of the Minimum Purchase Price or \$500.00. The check of the successful bidder shall be retained by the Board as a portion of the earnest money, as provided for herein. The checks of the other parties who were unsuccessful at the auction shall be returned upon a determination of the successful bid. Any prospective bidder who has failed to comply with such earnest money requirements shall not be permitted to participate in the auction.

**C. SALE WITH RESERVE**

THE BOARD RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS FOR ANY REASON WHATSOEVER WHETHER THEY MEET THE BID SPECIFICATIONS OR NOT, TO WAIVE ALL IRREGULARITIES, AND TO RESCHEDULE THE PUBLIC SALE.

**D. AS-IS PURCHASE**

The Real Estate will be sold “AS-IS.” Prospective purchasers are encouraged to examine the Real Estate. Seller makes no warranties, either expressed or implied, as to the Real Estate. Purchaser shall take all action it deems necessary, at its sole cost and expense, to verify the condition of the Real Estate, the legal description of the Real Estate, and any zoning, subdivision or building restrictions. Moreover, the Board makes no representations or warranties regarding the Board’s title or interest in the Real Estate. The Real Estate shall be transferred by way of Quit Claim Deed to the successful bidder. The Board shall provide prospective purchasers with a copy of a Commitment for Title Insurance, No. 1401 880007434, issued by Chicago Title Insurance Company on February 18, 2009. Prospective purchasers are responsible, at their own expense, for reviewing the title commitment and ordering and inspecting any of the documents referenced in the title commitment.

Prospective purchasers must contact Dr. Ellen Mauer at (847)245-2900 to schedule site visits. Prospective purchasers assume all risks associated with inspecting the Real Estate and waive any and all claims they or their heirs may have against the Board resulting from or

relating to such inspection. By entering onto the Real Estate, the prospective purchasers agree to indemnify, defend, and hold harmless the Board, its employees and its agents from any and all losses, costs, damages, suits and fees of any kind or nature whatsoever, including attorney's fees, arising out of, relating to, or in connection with the prospective purchaser's inspection of the Real Estate. No physical testing of any nature may be done on the Real Estate without the express written consent of the Board.

**E. EXECUTION OF CONTRACT**

At the conclusion of the auction, the successful bidder shall execute duplicate original contracts for the purchase of the Real Estate, which contract is fully set forth below in Section F of the Terms and Conditions of Sale. At the time of the execution of the Real Estate Purchase Agreement, the successful bidder shall furnish evidence satisfactory to the Board of the contract signer's authority to act on behalf of the successful bidder. Within two business days after the execution of the Real Estate Purchase Agreement set forth in Section F, the successful bidder shall deliver the balance of the earnest money as required by paragraph 1 of the Real Estate Purchase Agreement, by certified check or its equivalent, to the Superintendent. A contract shall be deemed to have been entered into by the Board upon execution of the Real Estate Purchase Agreement set forth in Section F first by the successful bidder, and subsequently by the authorized representatives of the Board.

F. **CONTRACT AND OTHER TERMS OF SALE**

**REAL ESTATE PURCHASE AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_ day of January, 2010, by and between the BOARD OF EDUCATION OF MILLBURN COMMUNITY CONSOLIDATED SCHOOL DISTRICT NO. 24, Lake County, Illinois (“Seller”), and \_\_\_\_\_ (“Purchaser”).

**RECITALS:**

- A. Seller utilizes the real estate commonly known as the Hockaday School site, Lake County, Illinois, legally described on Exhibit A attached hereto and made a part hereof. (Said real estate, together with all improvements, fixtures, easements, appurtenances and benefits pertaining thereto shall hereinafter be referred to as the “Real Estate”).
- B. Purchaser desires to purchase the Real Estate from Seller, and Seller desires to sell the Real Estate to Purchaser, upon the terms and conditions hereinafter set forth.

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

- 1. **Sale and Purchase.** Seller agrees to sell and Purchaser agrees to purchase the Real Estate on the terms and conditions herein set forth at a price of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents (\$\_\_\_\_\_.\_\_\_\_\_) (the “Purchase Price”), plus or minus prorations, at the time of Closing as hereafter defined. Purchaser shall submit the greater of ten percent (10%) of the Purchase Price or Five Hundred Dollars and No Cents (\$500.00) as Earnest Money (“Earnest Money”) to be applied to the Purchase Price at Closing.

The Earnest Money shall be held by the Seller for the mutual benefit of the parties and shall be applied to the Purchase Price at Closing.

- 2. **Conveyance.** At the Closing, Seller agrees to convey, or cause to be conveyed, to Purchaser, fee simple title to the Real Estate by a recordable Quit Claim Deed. The Real Estate is being sold in an “AS-IS” condition. Seller makes no warranties, either expressed or implied, as to the Real Estate.
- 3. **Evidence of Title.** Seller makes no warranties, express or implied, as to the Board’s title to or interest in the Real Estate.
- 4. **Closing.** The consummation of the transaction herein described (the “Closing”) shall be seven (7) days after the date of the auction, at which time Purchaser shall tender the balance of the Purchase Price and Seller shall deliver the documents set forth in Paragraph 5 or as otherwise mutually agreed upon by the parties.

5. **Real Estate Documentation.** The Seller shall deliver to the Purchaser the Quit Claim Deed, applicable state and county transfer declarations, and any other documents required to consummate the transfer of the Real Estate and to enable the Purchaser to record the Quit Claim Deed.
6. **Quit Claim Deed.** The Purchaser shall record the Quit Claim Deed with the Lake County Recorder of Deeds within twenty-one (21) days of the Closing.
7. **Delivery of Possession.** Seller shall deliver possession and control of the Real Estate on the day of the Closing.
8. **Closing Adjustments.** Purchaser shall pay the amount of any stamp tax imposed on Seller or Purchaser by law of the State of Illinois, the County of Lake, and any municipality, on the transfer of title. Purchaser shall also pay any property taxes due and owing on the Real Estate.
9. **Notices.** Any notices and communications required to be given under this Agreement shall be in writing and, except as otherwise expressly provided, shall be (i) mailed by registered or certified mail, return receipt requested, postage prepaid, (ii) sent by facsimile transmission, (iii) sent by electronic mail, or (iv) personally delivered by hand against receipt therefor to the parties at the address set forth below, or such other address as any party may designate to the others by notice hereunder. All such notices shall be deemed to have been received on the date of personal delivery, facsimile transmission, electronic transmission or, if mailed, on the fifth day after mailing.

If to Seller: Board of Education of  
 Millburn Community Consolidated School District No. 24  
 18550 Millburn Road  
 Wadsworth, Illinois 60083  
 Attention: Superintendent

If to Purchaser: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

10. **Broker.** Purchaser shall be solely responsible for payment of any broker's commission involved in this transaction. Purchaser shall indemnify, defend and hold Seller harmless from and against any fee, commission or compensation due any broker, finder or intermediary as a result of the sale of the Real Estate under this Agreement.
11. **Time.** Time is of the essence of this Agreement.
12. **Governing Law and Interpretation.** This Agreement shall be governed by the laws of the State of Illinois. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms shall refer to this Agreement, and the term "hereafter" shall mean after, and the



term “heretofore” shall mean before, the date of this Agreement. Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and the words importing the singular number shall mean and include the plural number and vice versa. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, joint ventures, and other legal entities, including public bodies, as well as natural persons. The terms “include,” “including” and similar terms shall be construed as if followed by the phrase “without being limited to.”

13. **Miscellaneous**. If the date for Closing or performance of an obligation falls on a Saturday, Sunday or holiday, the date shall be deferred until the first business day following. This Agreement contains the entire agreement between the parties hereto relative to the sale of the Real Estate and all prior and contemporaneous understandings and agreements heretofore entered into relating to such sale are merged in this Agreement, which alone fully and completely expresses the agreement of the parties. No amendments, modifications or changes shall be binding upon a party unless set forth in a duly executed document
14. **Waiver**. Purchaser reserves the right to waive any of the conditions precedent to its obligations hereunder. No such waiver, and no modification, amendment, discharge or change of this Agreement, except as otherwise provided herein, shall be valid unless the same is in writing and signed by the party against which the enforcement of such waiver, modification, amendment, discharge or change is sought.
15. **Binding Effect and Survival**. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. Any covenant, representation, warranty, or agreement by a party hereunder which by its terms or by implication imposes an obligation to be performed after the Closing shall survive the Closing.
16. **Captions**. The captions of this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.
17. **Assignment**. Neither party shall assign its rights or obligations under this Agreement.

-- SIGNATURE PAGE TO FOLLOW --

**IN WITNESS WHEREOF**, the parties hereto have executed this Real Estate Purchase Agreement as of the day first above written.

**SELLER:**

**PURCHASER:**

**BOARD OF EDUCATION  
MILLBURN COMMUNITY CONSOLIDATED  
SCHOOL DISTRICT NO. 24,  
LAKE COUNTY, ILLINOIS**

**By:** \_\_\_\_\_  
**Its:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Its:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ATTEST:**

**ATTEST:**

**By:** \_\_\_\_\_  
**Its:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Its:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF REAL ESTATE**

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**G. FURTHER INFORMATION**

Additional information may be obtained from Dr. Ellen Mauer, Superintendent, Millburn Community Consolidated School District No. 24, 18550 Millburn Road, Wadsworth, Illinois 60083, (847) 245-2900. Only written correspondence from the Board or its authorized representative shall bind the Board with respect to the sale of the Real Estate. No oral representations regarding the sale of the Real Estate shall bind the Board.

**EXHIBIT C**

**NOTICE OF PUBLIC SALE**

**BOARD OF EDUCATION OF  
MILLBURN COMMUNITY CONSOLIDATED  
SCHOOL DISTRICT NO. 24  
LAKE COUNTY, ILLINOIS**

Notice is hereby given that the Board of Education of Millburn Community Consolidated School District No. 24, Lake County, Illinois ("Board"), will sell at public sale, by auction, the property commonly known as the Hockaday School Site and legally described as follows:

THAT PART OF THE NORTH EAST QUARTER OF SECTION 31, TOWNSHIP 46 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING ON THE SOUTH LINE OF THE NORTH EAST QUARTER AT A POINT 4.63 CHAINS, EAST OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH AT RIGHT ANGLES TO SAID SOUTH LINE, 2.57 CHAINS, TO THE CENTER LINE OF PUBLIC HIGHWAY; THENCE SOUTHEASTERLY ALONG CENTER LINE OF SAID HIGHWAY, 2.16 CHAINS TO A LINE 132 FEET EAST OF THE WEST LINE OF THIS DESCRIBED PARCEL; THENCE SOUTH PARALLEL WITH SAID WEST LINE, 1.77 CHAINS, TO AFORESAID, SOUTH LINE OF THE NORTHEAST QUARTER; THENCE WEST ALONG SAID SOUTH LINE, 2 CHAINS TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS (EXCEPT THEREFROM THAT PART OF THE LAND TAKEN OR USED FOR MILBURN ROAD) ("Real Estate").

The sale of the Real Estate shall be by auction on January 7, 2010, at 1:00 p.m., at Millburn Community Consolidated School District No. 24, 18550 Millburn Road, Wadsworth, Illinois 60083. Please contact Dr. Ellen Mauer at (847) 245-2900 to obtain the terms and conditions of the sale.

STATE OF ILLINOIS     )  
                                  )  
COUNTY OF LAKE        )        SS

**SECRETARY’S CERTIFICATE**

I, \_\_\_\_\_, the undersigned, hereby certify that I am the duly qualified and acting Secretary of the Board of Education, Millburn Community Consolidated School District No. 24, Lake County, Illinois, and that, as such official, I am the keeper of the records and files of the Board of Education of said School District.

I do further certify that the foregoing Resolution Authorizing the Sale of Real Property, is the true, correct, and complete copy of said Resolution as adopted by the Board of Education of said School District at a meeting held on the 23rd day of November, 2009.

IN WITNESS WHEREOF, I hereunto affix my official signature this 23rd day of November, 2009.

\_\_\_\_\_  
Secretary  
Board of Education of  
Millburn Community Consolidated  
School District No. 24  
Lake County, State of Illinois