

the District has fully complied with all the conditions set forth in the laws applicable to the District selling surplus land; and the District's covenant to defend any lawsuits filed hereafter by one who contests the District's right to sell the subject property and hold the City free and harmless therefrom.

e. As a part of the District's grant of the subject property, the Deed shall contain a provision setting forth the District's right to a reversionary interest in the land as follows:

1. The District shall have the right of reentry to the subject property if the City shall ever rezone the property for purposes other than open space or use for parks and recreational purposes; or

2. The City leases or sells said property to entities whose primary purpose is to engage in proprietary or money making activities.

3. The property is ever used for purposes other than open space or parks and recreational purposes.

f. The escrow agent shall do the necessary prorations or adjustments as are required.

g. The escrow shall close on or before November 1, 1977, or be terminated on that date unless the District and the City expressly agree in writing to extend the escrow beyond this date.

ARTICLE 4

FURTHER AGREEMENTS PURSUANT TO THE MEMORANDUM OF UNDERSTANDING

Section 4.01 The escrow agent is not to be concerned with the concepts hereinafter set forth other than a formal document executed

by the District and the City must be submitted to the escrow agent with a recital in the agreement that it is to be made a part of the escrow and is an integral part of the entire transaction. If this agreement is not submitted to the escrow agent, the escrow agent is instructed not to close the escrow.

Section 4.02 The nature of this memorandum of understanding shall be construed as being analogous to a lease in that a part of the consideration for the District selling the subject property to the City for less than fair market value is the District's right to use the subject property facilities without cost as more particularly set forth below; and, conversely, a part of the consideration the City is giving to the District, is allowing the District use of the facilities at the subject property as more particularly set forth below.

Section 4.03 For a period of ten years after the close of escrow the District shall have the first priority to use the Pier Avenue School facilities rent free subject to the following conditions:

- a. The District's use of the school facilities shall be conditioned upon the City and District working out a "notice procedure" wherein the City will have adequate notice of the District's intention to use the facilities.
- b. The District shall have the right to use classroom facilities at the subject property when and if the District's pupil enrollment exceeds 1,266 pupils in that after the District shall be entitled to the use of one classroom per 28 children enrolled beyond 1,266 pupils.
- c. The District shall be entitled to use certain office and storage space at the Pier Avenue School, the square foot area and location to be agreed upon by the District and the City.

78- 241041