

**CITY OF SULLIVAN,
MOULTRIE COUNTY, ILLINOIS**

ORDINANCE NO. 17-22

SULLIVAN TIF DISTRICT IV

**AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT**

by and between

THE CITY OF SULLIVAN

and

SULLIVAN C.U.S.D. NO. 300

**ADOPTED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF SULLIVAN, ILLINOIS,
ON THE 24TH DAY OF JULY, 2017.**

CITY OF SULLIVAN, ILLINOIS: ORDINANCE NO. 17-22

CITY OF SULLIVAN
AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
THE CITY OF SULLIVAN
AND
SULLIVAN C.U.S.D. NO. 300

BE IT ORDAINED BY THE CITY OF SULLIVAN THAT:

SECTION ONE: The Intergovernmental Agreement with Sullivan C.U.S.D. No. 300 is hereby approved.

SECTION TWO: The Mayor is hereby authorized and directed to enter into and execute on behalf of the City said Intergovernmental Agreement and the City Clerk of the City of Sullivan is hereby authorized and directed to attest such execution.

SECTION THREE: The Intergovernmental Agreement shall be effective the date of its approval on the 24th day of July, 2017.

SECTION FOUR: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED, APPROVED AND ADOPTED by the Corporate Authorities of the City of Sullivan, Illinois, on the 24th day of July, 2017, and deposited and filed in the Office of the City Clerk of said City on that date.

MAYOR & COMMISSIONERS	AYE VOTE	NAY VOTE	ABSTAIN / ABSENT
Mike Mossman	X		
Mike Kirk	X		
Bill Hagen	X		
Jerry Risley	X		
Ann Y. Short, President	X		
TOTAL VOTES:	5		

APPROVED: Ann Y. Short, Date 7 / 24 / 2017
Mayor, City of Sullivan

ATTEST: Monte A. Johnson, Date: 7 / 24 / 2017
City Clerk, City of Sullivan

**SULLIVAN TIF DISTRICT IV
INTERGOVERNMENTAL AGREEMENT**
by and between
THE CITY OF SULLIVAN, MOULTRIE COUNTY, ILLINOIS
and
SULLIVAN C.U.S.D. NO. 300

This Intergovernmental Agreement is entered into this 24th day of July, 2017 by and between the City of Sullivan, an Illinois Municipal Corporation, and Sullivan C.U.S.D. No. 300, an Illinois School District, pursuant to the 1970 Illinois Constitution and Illinois Compiled Statutes.

PREAMBLE

WHEREAS, the City of Sullivan, (the “City”) is an Illinois Municipal Corporation organized under the Constitution and Statutes of the State of Illinois; and

WHEREAS, Sullivan C.U.S.D. No. 300, (the “School District”) is an Illinois School District organized under the Statutes of the State of Illinois; and

WHEREAS, the City has the authority under the Expenses for Economic Development Act, 65 ILCS 5/8-1-2.5, to appropriate and expend funds for economic development purposes, including, but not limited to, the making of grants to other governmental entities that is deemed necessary or desirable for the promotion fo economic development within the municipality; and

WHEREAS, the 1970 Illinois Constitution, Article VII, Section 10, and the Illinois Compiled Statutes, Ch. 5 Section 220/1 *et. seq.* provide legal authority for intergovernmental privileges and authority to be enjoyed jointly by school districts and municipalities as well as other public bodies politic; and

WHEREAS, the Tax Increment Allocation Redevelopment Act (“TIF Act”), Illinois Compiled Statutes, Ch. 65 Section 5/11-74.4-1 *et. seq.* authorizes a municipality to enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan and project; and

WHEREAS, pursuant to Sections 4-3(q)(7) and (q)(10) of the TIF Act, a municipality may make payments to affected taxing districts for reimbursement of all or a portion of a taxing district’s capital costs and costs for vocational education, 65 ILCS 5/11-74.4-3(q)(7) and (q)(10); and

WHEREAS, the City is proposing to adopt a Redevelopment Plan and Projects and designate a Redevelopment Project Area pursuant to the TIF Act to be known as the “Sullivan Tax Increment Financing District IV” (the “TIF District”) which is an area located within the School District and which will impact the growth of the School District’s taxing base; and

WHEREAS, this Agreement is subject to and contingent in its entirety on the City’s successful establishment of the TIF District; and

WHEREAS, the City has determined that it wishes to reduce the negative impact on the real estate tax base of the School District from the establishment of the TIF District by reimbursing certain capital costs incurred in furtherance of the objectives of the TIF District Redevelopment Plan and

Projects as described below; and

WHEREAS, the School District shall use any payments received hereunder for reimbursement of capital and equipment expenditures relating to any facility and educational program of the School District; and

WHEREAS, any payments provided for hereunder are not payments in lieu of taxes as defined by the Act; and

WHEREAS, in consideration for the City's pledge to reimburse the School District as described herein, the School District agrees that it shall fully support the City's establishment of the TIF District as set forth in *Section B(7)* below; and

WHEREAS, the Parties declare that this Agreement is adopted pursuant to the 1970 Illinois Constitution, Article VII, Section 10; the Tax Increment Allocation Redevelopment Act, Illinois Compiled Statutes, as amended, Ch. 65 Section 5/11-74.4-1 *et. seq.* and other applicable statutes.

DEFINITIONS

"Available Local Resources": shall have the same meaning as it does in Section 5/18-8.05 (D) of the School Code.

"Calculation Rate": Shall mean the applicable rate set forth in Section 5/18-8.05(D) of the School Code which shall be multiplied by the School District's Equalized Assessed Value to determine the School District's Available Local Resources. Currently the Calculation Rate for Unit School Districts is 3% (see 105 ILCS 5/18-8.05(D)(3)).

"Foundation Level": Shall have the same meaning as it does in Section 5/18-8.05 of the School Code.

"General State Aid": Shall have the same meaning as it does in the School Code.

"School Code": Shall mean the Illinois School Code, 105 ILCS 5/1 *et seq.*

AGREEMENTS

NOW THEREFORE, in consideration of the statements and findings hereinafter set forth, the mutual covenants herein contained, and other good and valuable consideration the sufficiency of which is hereby acknowledged, the Parties hereto find and agree as follows:

A. REIMBURSEMENT OF CAPITAL COSTS

The Parties agree that under the current system of the State of Illinois school entitlement payments, the General State Aid for the School District is calculated as an amount equal to the Foundation Level minus Available Local Resources, pursuant to the School Code (see 105 ILCS 5/18-8.05(E)). Available Local Resources for a Unit School District are calculated as the product of the applicable Equalized Assessed Valuation for the School District multiplied by the Calculation Rate (which is currently 3% for Unit School Districts) (see 105 IICS 5/18-8.05(D)).

Pursuant to the School Code, any increase in Equalized Assessed Value (EAV) that occurs within the TIF District is not included in the School District's EAV for the purpose of calculating Available Local Resources (see 105 ILCS 5/18-8.05(G)(2)(a)). As a result, the School District will be entitled to receive more General State Aid from the State of Illinois than it would otherwise be entitled to receive if the growth in EAV occurring within the TIF District were to have occurred absent a TIF District.

The Parties agree that the financial impact of the TIF District on the School District will not result in a loss of all of the School District's Operating Tax Rate on the increased EAV occurring within the TIF District. The Parties also agree that the School District will be impacted by the difference between the School District's Operating Tax Rate on the increased TIF District EAV and the amount of General State Aid the School District is entitled to receive as a result of the increased TIF District EAV that is currently statutorily excluded from the Available Local Resources calculation (i.e. School District EAV multiplied by 3%). Therefore, for the purpose of this Agreement, the School District's actual loss (hereinafter referred to as "**Actual Real Estate Tax Loss**") resulting from any increase in EAV occurring within the TIF District shall be annually calculated by multiplying the increase in EAV occurring within the TIF District by the difference between the School District's Operating Tax Rate and the Calculation Rate.

1. **Reimbursement of Actual Real Estate Tax Loss:** Each year during the term of this Agreement, the City shall pay to the School District from the real estate increment created within the TIF District a sum equal to the School District's Actual Real Estate Tax Loss (as defined above) resulting from any increase in EAV that occurs within the TIF District and that is located in the School District. The School District shall use these funds for the reimbursement of capital costs (as defined in *Section A(2)* below) and for the costs of operating its job training, advanced vocational education and career education programs. Such payments are not payments in lieu of taxes, shall be made by the City only from the TIF District Special Tax Allocation Fund and are subject to the following:
 - a. Reimbursements for the School District's Actual Real Estate Tax Loss hereunder shall not exceed Twenty Percent (20%) of the annual real estate tax increment that occurs within the TIF District.
 - b. The Parties acknowledge that the entire method of funding common schools may be altered in the future by the Illinois Legislature to change the dependency of school funding on real property taxation. If such a change occurs, the Parties agree to undertake a good faith effort to amend this Agreement accordingly, in order to adjust the annual calculation of the School District's Actual Real Estate Tax Loss, subject to the limitation set forth in *Paragraph 1(a)* above.
 - c. The Parties agree that the Illinois Department of Education as an independent State Agency possesses the expertise and ability to compute the actual operating tax loss to the School District annually by virtue of the creation of the TIF District.
2. **Definition of Capital Costs:** For purposes of this Agreement, the term "capital costs" shall mean expenditures for the purchase, rental, or use of "capital assets" or "non-capitalized equipment" as those terms are defined in the current Illinois State Board of Education Regulations. Examples of "capital costs" may include:

- a. Acquisition of land to serve the immediate or future needs of children from the development;
 - b. Improvement to any existing school site which already serves such needs;
 - c. Development of classrooms, parking lots, sidewalks, traffic signals, internal roadways, connections with water, sewer and electrical lines; playgrounds; recreation grounds and athletic fields;
 - d. Remodeling or renovation of school facilities;
 - e. Purchase and prefabrication of classroom units;
 - f. Material, goods or equipment;
 - g. Buses, maintenance equipment, office equipment, district vehicles, or playground equipment;
 - h. Any other capital equipment deemed necessary by the School District; and
 - i. Capital expenditures associated with advanced vocational education programs such as Vocational Building Trades.
3. **Verification of Real Estate Tax Increment:** The Parties agree that the Moultrie County Clerk will provide to the parties the actual annual net real estate tax increment generated within the TIF District and within the boundaries of the School District and report such increment to the Parties. The Parties shall then use the information provided by the Moultrie County Clerk to compute the reimbursements to be made to the School District under *Section A(1)* above. If the County Clerk fails to provide the information requested, the Parties will use their own best efforts to obtain the necessary documentation.
4. **Verification of Capital Costs:** The School District will annually provide to the City an accounting of its capital and/or vocational education expenditures in advance of its request for funds to be provided hereunder. The accounting shall be submitted by the School District to the City on or before June 1 of the year in which a real estate increment to the School District is deposited in the Special Tax Allocation Fund and from which payments are to be made to the School District.
5. **Time of Payment:** The City shall pay the sums determined in *Section A(1)* above to the School District within sixty (60) days of the City's receipt of the real estate tax increment generated as a preference and in the same proportions as actually received by the City. For example, the City may pay an estimated one-third of the amount computed above to the School District within sixty (60) days of the date received in August.
6. **Excess Costs:** In the event that the capital and/or vocational education expenditures of the School District, in any year, exceed the amount available for distribution hereunder from the special tax allocation fund, any unreimbursed capital expenditures and/or vocational education expenditures may be carried over to a subsequent year or years and paid by the City.
7. **Withholding of Reimbursements:** If a refund or reimbursement of real estate tax increment (including any statutory interest thereon) is potentially due from the City's Special Tax Allocation Fund for any reason including, but not limited to any tax objection, assessment challenge or formal appeal to the Illinois Property Tax Appeal Board (PTAB), issuance of a certificate of error or any other similar action, including any appeals therefrom for any property located within the TIF District, the City may at its sole discretion withhold the School District's share of any such refund or reimbursement from payments due the School District under this

Agreement until the time such action is resolved.

Any funds withheld by the City under this section shall be deposited by it into a separate interest bearing bank account. Upon final determination of the assessed value of the parcel or parcels, the City shall pay to the School District the principal amount due, if any, under this Agreement as recalculated. The City shall be entitled to retain any interest earned on the account as partial payment for the administration of the account due to the delay of the determination of the final evaluation and recalculation of the benefits due to the School District under this Agreement.

If it appears to the City that it will be unable to recover the School District's share of any such refund from remaining future reimbursements due the School District under this Agreement, then the School District shall reimburse the City for its remaining unpaid share of such refund (including any accrued statutory interest thereon) within thirty (30) days upon receiving written demand of the same from the City.

Notwithstanding anything in this Agreement to the contrary, the obligations contained in this *Paragraph A(7)* shall remain in effect for the life of the TIF District. Furthermore, the obligations set forth in this paragraph shall survive the expiration of the TIF District if a tax objection or other such action taken by a property owner is pending prior to the expiration of the TIF District and shall continue until final disposition of such action.

B. GENERAL PROVISIONS

1. **Binding Effect:** This Agreement shall be binding on the parties and their respective successors--including successors in office. Should the School District merge, this Agreement shall apply to the successor School District.
2. **Governing Law:** This Agreement is governed by and shall be construed in accordance with the laws of the State of Illinois.
3. **Term:** This Agreement shall become effective upon the adoption by the City of an Ordinance approving it and shall remain in effect until either the City adopts an Ordinance dissolving the TIF District or until the termination of the TIF District as adopted in the Redevelopment Plan, whichever is earlier. Whether the TIF District exists for the entire 23 years called for under the Plan or terminates earlier, the City will pay from incremental real estate taxes distributed to the City in the year following the sums due the School District for the prior year which remains unpaid.
4. **Amendments, Waivers, Modifications:** No amendment, waiver or modification of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed in writing and adopted by each of the parties as required by law.
5. **Real Estate Tax Increment Information:** The Administrators of this TIF District Redevelopment Plan and the City agree to provide the School District with information developed to establish the initial equalized assessed valuation of the TIF District and the calculations for successive years' computation of the real estate increment for the TIF District as a whole. The Administrators further agree to provide the School District with a copy of the TIF Annual Report when it is presented to the City Council and such other documents or

information required by law to be provided to the taxing bodies.

6. **Enforcement:** The Parties agree that in the event either party to this Agreement should fail to perform or avoid its obligations hereunder, the party not in breach may initiate an action in the local circuit court to enforce the terms and conditions set forth herein and shall be permitted to assess all costs and reasonable attorneys' fees incurred by reason of such enforcement action against the party in breach, which costs and reasonable attorneys' fees shall be promptly paid.
7. **Amending the TIF District:** The City will not enlarge the TIF District or amend the TIF District Plan without prior notification to the School District as required by statute.
8. **Waiver of Objections:** The School District by its execution and approval of this Agreement hereby waives forever any and all right to directly or indirectly set aside, modify or contest in any manner the establishment or administration of the TIF District including the Redevelopment Plan, Projects and Area as proposed and approved by the City. Nothing contained herein is to be construed to give the School District any right to participate in the administration of the TIF District Redevelopment Plan or Projects.
9. **Prevailing Wage:** The School District acknowledges that it is responsible for compliance with the Illinois Prevailing Wage Act. The School District shall not pay less than the prevailing rate of wages as found by the City or Illinois Department of Labor to all laborers, workers and mechanics performing construction work paid for in whole or in part with TIF funds received under this Agreement. The School District shall indemnify and hold harmless the City, its officers, officials, agents and consultants from any and all claims related thereto.
10. **Complete Agreement:** This Agreement expresses the complete and final understanding of the parties with respect to the subject matter as of the date of its execution. Each party acknowledges that no representations have been made which have not been set forth herein.
11. **Titles of Paragraphs:** Titles of the several parts, paragraphs, sections or articles of this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any provisions hereof.
12. **Partial Invalidity:** In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
13. **Notices:** All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as fo the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid addressed as follows:

To City:
City of Sullivan
c/o City Clerk
2 West Harrison
Sullivan, IL 61951
Phone: (217) 728-4383

To School District:
Superintendent
Sullivan C.U.S.D. No. 300
725 N. Main Street
Sullivan, IL 61951
Phone: (217) 728-8341

With Copy To:
Jacob & Klein, Ltd.
The Economic Development Group
1701 Clearwater Ave.
Bloomington, IL 61704
Phone: (309) 664-7777

14. **Authority to Execute:** The undersigned represent that they have the authority of their respective governing authorities to execute this Agreement.

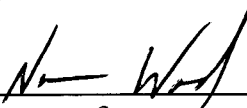
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 24th day of July, 2017.

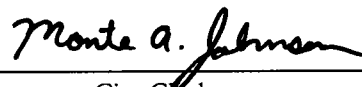
SULLIVAN C.U.S.D. NO. 300,
an Illinois School District

CITY OF SULLIVAN, an Illinois
Municipal Corporation

By: 
President, Board of Education

By: 
Mayor

Attest: 
Secretary

Attest: 
City Clerk