

**RESOLUTION NO.**

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE AND SCHOOL DISTRICT 58**

\_\_\_\_\_ BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Intergovernmental Agreement (the “Agreement”), between the Village of Downers Grove (the “Village”) and District 58 (the “District”), for an “educational benefit” to be provided to the District in relation to the creation of the Ogden TIF District, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest:

Village Clerk

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
VILLAGE OF DOWNERS GROVE AND SCHOOL DISTRICT 58**

The Village of Downers Grove, an Illinois municipal corporation and home-rule unit (hereinafter referred to as the "Village"), and Downers Grove Elementary School District #58 (hereinafter referred to as "District #58") for and in consideration of the mutual promises, covenants and conditions, agree as follows:

**SECTION 1. RECITALS:**

1. The Village is a duly organized and existing municipal corporation and home-rule unit pursuant to the laws and Constitution of the State of Illinois.
1. District #58 is a duly organized and existing school district existing under the laws of the State of Illinois.
1. District #58 and the Village share near co-terminus tax district boundaries and rely upon a similar size property tax base. Over 80% of the District 58 budget is funded with property tax revenue, of which approximately 2% comes from properties within the Ogden Avenue TIF.
1. Article VII, Section 10 of the 1970 Constitution of the State of Illinois, and the Intergovernmental Cooperation Act (5 ILCS §§ 220/1 et seq.), provide that units of local government may contract with one another to perform any activity authorized by law.
1. Pursuant to the Tax Increment Redevelopment Act [65 ILCS 5/11-74.4-1 et seq. (the "Act")], the Village is empowered to take certain actions pertaining to redevelopment activities and to establish tax increment financing districts.
1. Ogden Avenue is a commercial corridor in the Village which has not realized significant economic growth, has stagnant property values, is underdeveloped and subject to qualification as a conservation area under the Act as set forth in the Ogden Corridor TIF Qualification Report prepared jointly by the Village of Downers Grove and Kane McKenna and Associates, dated September, 2000, which is incorporated into and made a part of this Agreement by reference.
1. On June 28, 1999, the Downers Grove Village Council adopted Resolution 99-45 providing for a feasibility study related to the establishment of a redevelopment project area and tax increment financing district along Ogden Avenue (the "Ogden 2001 TIF"). On September 19, 2000, the Downers Grove Village Council adopted Ordinance 4218 proposing the Ogden 2001 TIF, setting a public hearing and convening a Joint Review Board. The Joint Review Board was properly convened and ultimately found that the criteria for creation of the Ogden 2001 TIF were established.
1. A public hearing was held by the Downers Grove Village Council commencing and concluding on November 21, 2000. During that public hearing concerns were raised that the Ogden 2001 TIF not adversely impact District 58.

Thursday, January 25, 2001

1. The Village contemplates adoption of the Ogden 2001 TIF ordinances before the end of February, 2001.
  
1. To strengthen the Village of Downers Grove and to further foster intergovernmental relations and good will between the Village and its largest co-terminus taxing district, the Village will endeavor to provide a educational benefit to District #58 as set forth in this agreement. Although the amount of the educational benefit will be based on TIF revenues it will be paid from non-TIF revenues, in an exercise of the Village's home-rule powers.
  
1. Because of their substantially co-terminus boundaries, and because the economic viability of the Village and the quality education provided by District #58 have uniquely significant impacts upon each of the parties, the Ogden TIF should result in benefits running to both parties and the parties agree to cooperate and support the creation of the Ogden 2001 TIF.

**SECTION 2. EDUCATIONAL BENEFIT:** The Village in an exercise of its home-rule powers, agrees to provide District #58 with an Educational Benefit as provided herein. The Educational Benefit will be based upon the tax increment from the Ogden Avenue TIF actually received by the Village which is attributed to the District #58 tax rate (the "Ogden Increment"). The Village shall annually, based upon information provided the DuPage County Clerk, determine the amount of the Ogden Increment actually received. Provided, this shall not include any Ogden TIF tax funds which are required to be otherwise disposed of by law; such as through a court order or federal or state legislation, but shall include funds which may declared as surplus. The Educational Benefit shall be paid from non-Ogden TIF revenues of the Village and shall be an amount equal to fifty percent (50%) of the Ogden Increment for the prior levy year. The Village pledges such payment and will provide for the Educational Benefit each year in its annual budget. Provided, in the event a surplus is declared for any year of the Ogden 2001 TIF, the Educational Benefit for that year shall be reduced by the amount of the surplus paid to District 58. In no event will an Educational Benefit be paid in any year which causes reimbursements in that year to District 58 (Educational Benefit plus Surplus) to exceed an amount equal to fifty percent (50%) of the Ogden Increment for the prior levy year.

**SECTION 3. CONSIDERATION:** In consideration of the Educational Benefit as provided herein, District 58 waives any objection it may have to the Ogden 2001 TIF and the parties agree to cooperate and support the creation of the Ogden 2001 TIF.

**SECTION 4. AGREEMENT RE-OPENERS:** The parties agree that it may be necessary to re-open negotiations in relation to this agreement in light of changed circumstances. The Ogden Avenue TIF is expected to be a 23-year TIF and the parties realize that it is impossible, at this time, to anticipate all future conditions which may necessitate such re-negotiations. The goal of any re-negotiation shall be to maintain the benefit of this agreement for both parties in light of changed circumstances. Provided, this agreement shall remain in full force and effect unless and until an amended agreement is approved by both parties. The parties agree that the agreement will be re-negotiated in the event of changed circumstances which materially affect the provisions of this agreement. Either party may request re-negotiation at any time, setting forth the reasons therefore. Without limitation of this right, the parties acknowledge that re-negotiation will occur in the following circumstances:

- a. In the event the State of Illinois implements legislation which

Thursday, January 25, 2001

changes the method of school funding to reduce the reliance of school districts on local property taxes by a factor of ten percent (10%) or more.

- a. In the event that School District #69 (Puffer-Hefty) is added to District #58.
- a. In the event the State of Illinois implements legislation which removes specific funds from the reach of the Property Tax Extension Limitation law (the "Tax Cap") while still leaving those uncapped funds within the reach of the TIF statutes.
- a. In the event the State of Illinois or Federal Government implements legislation which causes a reduction in sales or utility tax revenues; it being understood that the Village anticipates funding the Educational Benefit with such revenues, the loss or reduction of which could materially impair the ability of the Village to fund the Educational Benefit.

#### SECTION 5. MISCELLANEOUS PROVISIONS:

1. The parties agree to cooperate and endeavor to implement this agreement in good faith. Each party shall designate a liaison to work directly with the other party to ensure that the spirit and letter of this agreement are fulfilled. In addition, the parties agree to meet not less than once a year separate from the JRB meeting to discuss the impacts, benefits and burdens of the Ogden TIF.
1. The use and expenditure of the Educational Benefit shall be within the sole discretion of District 58 and the Village shall have no oversight authority or responsibility regarding such use or expenditure.
1. The Village agrees to pay such amount as specified in the Act at 65 ILCS 5/11-74.4-3(q)(7.5), effective November 1, 1999, for children attending District #58 schools and residing in TIF assisted housing. This payment shall be in addition to the Educational Benefit provided in this Agreement.
1. This Agreement shall be for the same term as the Ogden TIF adopted in 2001. Currently, it is expected that the 2001 Ogden TIF will be for a term of 23 years. In the event the Ogden TIF is for a period of less than 23 years, the term of this Agreement shall be automatically adjusted accordingly. The Village will not extend the Ogden 2001 TIF beyond 23 years without agreement of District 58.
1. This Agreement may not be assigned or transferred without the express written consent of both parties. Any assignment or transfer without such written consent shall, at the option of the non-assigning party, be deemed to be void and of no effect.
1. If any section, paragraph, clause or provision of this Agreement shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Agreement. Provided if Section 2 is determined to be invalid, Section 3 shall also be invalid.

Thursday, January 25, 2001

1. Neither party shall be deemed in violation of this Agreement for the delay in performance or failure to perform in whole or in part its obligations under this Agreement due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood or other act of God or by other events to the extent that such events are caused by circumstances beyond such party's control.

1. A worksheet outline procedures for determining and paying the Educational Benefit provided herein is attached to this agreement as Exhibit A.

WHEREFORE, the parties have entered into this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

SCHOOL DISTRICT #58

VILLAGE OF DOWNERS GROVE

By:

By:

Title:

Title: \_\_\_\_\_

Attest:

Attest:

Village Clerk

1\mw\agr.01\Dist#58ed