

Intergovernmental Agreement between the Village of Riverside and Riverside School District Number 96 Relative to the Employment of School Crossing Guards

This Intergovernmental Agreement (the "Agreement") is dated as of the Effective Date set forth in Section 17 of this Agreement and is by and between the Village of Riverside, Cook County, Illinois (the "Village") and the Board of Education of Riverside Public Schools District 96, Cook County, Illinois (the "School District").

Witnesseth:

WHEREAS, the Village and the School District desire to provide for seven (7) part-time temporary seasonal school crossing guards (the "School Crossing Guards") to work within the Village's corporate boundaries at the specific locations set forth below in accordance with the terms and provisions of this Agreement; and

WHEREAS, Section 11-80-23 of the Illinois Municipal Code (65 ILCS 5/11-80-23) provides that the corporate authorities of municipalities may employ and fix the compensation of persons to serve as School Crossing Guards, on a part-time basis, and also authorizes municipalities to pay the salaries and related costs of such School Crossing Guards from funds contained in the general fund; and

WHEREAS, Section 10-22.28a of the Illinois School Code (105 ILCS 5/10-22.28a), provides that a school board may share the cost of employing School Crossing Guards with or accept the employment of School Crossing Guards by any unit of local government; and

WHEREAS, the School District has agreed to reimburse the Village for a portion of the salary and related employee benefit costs associated with employing the School Crossing Guards as set forth below, subject to the terms and conditions of this Agreement; and

WHEREAS, the Village agrees to hire and employ the School Crossing Guards as set forth below subject to the terms and conditions of this Agreement; and

WHEREAS, in addition to the Illinois Municipal Code and the School Code sections cited above, the School District and the Village are authorized to enter into this Agreement pursuant to the intergovernmental cooperation powers provided by Section 10(a) of Article VII of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, et seq.; and

WHEREAS, it is in the best interests of the Village and the School District to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the parties' mutual undertakings, promises, covenants, financial payments and agreements as set forth below, the parties agree as follows:

1. Recitals. Each of the above recitals is incorporated into this Section 1 of this Agreement

as material provisions agreed to by the parties.

2. Hiring and Employment of School Crossing Guards and a Supervising Community Service Officer.

A. Hiring and Employment by Village. The Village agrees to hire, train and supervise seven (7) part-time temporary seasonal school crossing guards who will work and perform the duties and responsibilities of a school crossing guard (the "duties"), as directed by the Village Manager or the Chief of Police of the Village, or their designees. The Village agrees to place the necessary job advertisement for the school crossing guard position in local newspapers, circulars, Internet and other media, as necessary. The Village will hire individual school crossing guards that are consistent with the terms set forth in this Agreement. In such employment agreements, the school crossing guards shall agree to perform the duties of school crossing guard on the days and for the hours of work as required by this Agreement. The school crossing guards shall also agree to assist the Village, upon request, with the prosecution of such violations of local and State traffic and other laws, codes and ordinances as they witness or become aware of as a result of working as school crossing guards. The Village also agrees to use a full-time Police Sergeant ("Sergeant") at no cost to the school district, to supervise the school crossing guards in the performance of their duties. The performance of the work described herein shall not be construed as creating any employment relationship or employment contract or agency relationship between the school crossing guards, the Sergeant and the School District. The school crossing guards shall be part-time temporary seasonal employees of the Village and neither the school crossing guards nor the full-time Sergeant shall be employees of the School District.

B. Location and Dates of Work by the School Crossing Guards. The parties agree that the School Crossing Guards shall perform the Duties at each of the seven locations listed below and will be compensated for up to 4 hours a day per crossing:

Longcommon & Forest (1 School Crossing Guard)
Longcommon & Burlington (1 School Crossing Guard)
Longcommon Railroad Tracks (1 School Crossing Guard)
Longcommon & Nuttall (1 School Crossing Guard)
First Avenue & Forest Avenue (1 School Crossing Guard)
Ames School (1 School Crossing Guard)
Blythe School (1 School Crossing Guard) – Leesley & Kent

In the event that one of the School Crossing Guards is unable to perform his or her duties on a particular day or at a particular time, the Village will endeavor to retain or assign a replacement School Crossing Guard, Community Service Officer (CSO) or a full-time police officer who will perform the Duties.

C. Salary and Employment Benefits Reimbursement by School District. In consideration of the Village hiring and employing seven (7) temporary seasonal school crossing guards who will perform the duties of a School Crossing Guard in accordance with the terms of this Agreement, the School District agrees to reimburse the Village in the following manner:

- i. For six of the School Crossing Guards, fifty percent (50%) on an annual basis for the actual hourly salary and employment benefit costs that the Village incurs to employ the six School Crossing Guards. Compensable time shall commence when the Crossing Guard checks-in for work, and shall include travel time to and from the crossing location, set-up time at the crossing location, and providing the crossing guard services; provided that the School District shall not be required to pay for more than fifty percent four hours of a Crossing Guard's time per day.
- ii. For the one School Crossing Guard that will split its time between the School District and Riverside-Brookfield High School, thirty-three percent (33%) on an annual basis for the actual hourly salary and employment benefit costs that the Village incurs to employ the School Crossing Guard. Compensable time shall commence when the Crossing Guard checks-in for work, and shall include travel time to and from the crossing location, set-up time at the crossing location, and providing the crossing guard services; provided that the School District shall not be required to pay for more than thirty-three percent four hours of a Crossing Guard's time per day.

The School District total payment obligation shall not exceed Thirty Thousand Dollars (\$35,000.00) for the 2015-2016 school year and will increase by the Consumer Price Index (CPI) every year thereafter. The Village will bill the School District monthly for payroll costs for the previous month incurred by the Village as outlined in C.i. and C.ii. Additionally at the end of the Village's fiscal year, the Village will provide a system generated report providing detailed salary and employment benefit costs relating to the School Crossing Guards. The School District agrees to pay invoices in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.

The School Crossing Guards shall be treated as part-time Village employees for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Act and the Worker's Compensation Act (820 ILCS 305/1, et seq.). In the event that a School Crossing Guard works a sufficient number of hours to be entitled to collect overtime compensation, the School District shall not be responsible for the salary and employment benefit costs associated with the overtime compensation. The Village shall be responsible for supervising, evaluating, and providing payment to the School Crossing Guards.

The parties agree that the School Crossing Guards shall work a part-time temporary seasonal schedule and shall not work a sufficient number of hours in any calendar year or other applicable time period to qualify as a full-time Village employee based solely on their work hours as School Crossing Guards.

3. Term. The term of this Agreement shall commence on July 1, 2015 and shall renew annually on July 1st. The parties may mutually agree in writing to change the terms of this agreement and may agree to amend this Agreement by approving an addendum to the Agreement.

4. Indemnification.

- A. Village's Indemnification of School District. Subject to any defenses or limitations of liability permitted under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1 et seq., the Village agrees to defend, indemnify and hold harmless the School District and the School District Affiliates (defined as: its appointed and elected officials, officers, past, current and future presidents and trustees/board members, agents, engineers, attorneys, employees and volunteers) against all injuries, death, loss, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses, including reasonable attorneys' fees that may be brought or are brought against the School District and the School District Affiliates relating to or arising out of any work or services performed by the School Crossing Guards under this Agreement or relating to any matter covered by this Agreement, except to the extent that those claims, actions, lawsuits, damages, costs, expenses and liabilities arise from the sole negligence of or act or omission of the School District and the School District Affiliates.

- B. School District's Indemnification of the Village. Subject to any defenses or limitations of liability permitted under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1 et seq., the School District agrees to defend, indemnify and hold harmless the Village and the Village Affiliates (defined as: its appointed and elected officials, officers, past, current and future presidents and trustees/board members, agents, engineers, attorneys, employees and volunteers) against all injuries, death, loss, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses, including reasonable attorneys' fees which may be brought or are brought against the Village and the Village Affiliates relating to any matter covered by this Agreement, except to the extent that those claims, actions, lawsuits, damages, costs, expenses and liabilities arise from the sole negligence of or act or omission of the Village and the Village Affiliates or relate to or arise out of any work or services performed by the School Crossing Guards under this Agreement that is not attributable to the sole negligence of or act or omission of the Village and the Village Affiliates.

- C. Mutual Indemnification. The Village and School District agree to mutually indemnify and hold each other harmless (including their respective Affiliates) from and against any and all claims, causes of action, damages, liabilities, costs and expenses, including reasonable attorneys' fees, arising out of or relating to any claims or causes of action that are brought by third parties relating to the enforceability or validity of this Agreement.
- D. Notice of Claim or Litigation. In the event that one party receives notice of any claim, demand, or litigation that in any way relates to this Agreement, the receiving party shall promptly notify the other party and deliver a copy of the claim or litigation to the other party.
5. Insurance. The School District shall maintain commercial general liability insurance in the minimum amount of at least \$1,000,000 per occurrence, and in the aggregate. The Village shall maintain commercial general liability insurance in the minimum amount of at least \$2,000,000 per occurrence, and in the aggregate, and shall carry excess liability coverage of \$5,000,000 per occurrence and in the aggregate. Each party shall name the other party, its individual board members, employees, and agents as additional insureds on the commercial general liability and excess insurance required hereunder. Upon execution of this Agreement, each party shall tender to the other a certificate of insurance, in a form and substance reasonably acceptable, evidencing the insurance required under this Section. The School District acknowledges that as of the date of this Agreement, the Village is self-insured through Intergovernmental Risk Management Agency ("IRMA"). The School District expressly agrees to have the foregoing insurance requirements, at the option of the Village, provided through IRMA rather than through purchased insurance.
6. Termination; Default.
- A. Either party may terminate this Agreement at any time upon sixty (60) days written notice to the other party. Neither party shall have any claim or cause of action against the other party relating to the exercise of the party's right to terminate this Agreement, except that any valid termination of the Agreement shall not waive, void or nullify any claim or cause of action relating to non-payment or non-performance under the terms of this Agreement arising prior to the date of termination.
- B. If one party breaches any material term or provision of this Agreement and fails to cure such breach within twenty (20) days after receipt of written notice of the same, the non-breaching party may terminate the Agreement immediately or file suit to enforce its rights under the Agreement.
- C. If this Agreement is terminated, the School District shall be responsible only for its share of the costs incurred hereunder through the date of termination, not to exceed the amount of Thirty Thousand Dollars (\$35,000.00) for the 2015-2016 school year.

Should this Agreement be renewed, that amount will increase every year after the 2015-2016 school year by the Consumer Price Index (CPI).

7. Compliance with Laws and Criminal Background Checks. The Village shall ensure that its employees perform the Duties under this Agreement in compliance with all applicable laws, rules, regulations and ordinances, including, but not limited to, the *Illinois Human Rights Act* and the *Americans with Disabilities Act*. Further, the Village acknowledges that the consumption of alcohol and tobacco products is prohibited on all School District property and the Village shall not allow its employees to consume alcohol and tobacco products during the performance of the Duties. Additionally, the Village shall ensure that the School Crossing Guards have submitted, at the Village's cost, to a fingerprint based criminal background check, a Statewide Sex Offender Database check, a Statewide Murderer and Violent Offender Against Youth Database check and any other check per Section 10-21.9 of the *School Code*, and that any School Crossing Guard that has been convicted of any prohibited offense, as defined in said Section, shall be immediately removed his or her duties under this Agreement. The Village shall provide immediate notice to the School District in the event any School Crossing Guard is prohibited from being present on the School District's property. The School District reserves the right to request copies of any and all of the background checks required under this Section 7.
8. School District and Village Employees. All persons employed in connection with the Village's performance under this Agreement shall be and shall remain employees of the Village only, and the Village shall have the entire responsibility as employer of its employees and shall discharge all the obligations of any employer under any federal, state or local law, regulation or order, now or later in force.
9. Relationship of the Parties. Each party is neither the agent nor legal representative of the other party and this Agreement does not create an association, partnership, joint venture, fiduciary relationship or relationship of principal and agent between the Village and the School District.
10. Notice. Notices, if required, must be sent in writing by email, facsimile, courier or first class mail (postage prepaid) to the individuals listed below. In the event of any emergency, the Village may only be able to provide verbal notice first; such verbal notice will be followed as soon as practicable by written notice. Any notices which are required or which shall be given shall be addressed as follows:

To Village:

Village Manager
Village of Riverside
27 Riverside Road
Riverside, Illinois 60546
Phone: 708.447.2700 ext. 233
Fax: 708.447.2704

To School District:

Superintendent of Schools
Riverside School District 96
63 Woodside Road
Riverside, Illinois 60546
Phone: 708.447.5007
Fax: 708.447.3252

11. Venue and Applicable Law. This Agreement and all matters or issues relating to interpretation, validity, performance and enforcement shall be governed by the laws of the State of Illinois applicable to contracts performed entirely within this state. The parties agree that for the purpose of any litigation or proceeding brought with respect to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois. The Village and School District agree to submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.
12. Entire Agreement. This Agreement contains the entire understanding of the parties, with respect to the subject matter contained herein, supersedes all prior understandings relating to the subject matter contained, including without limitation the Memorandum of Understanding approved by the Village on December 19, 2013, and between the Village, the School District and the Board of Education of Riverside-Brookfield School District No. 208, regarding the use of School Crossing Guards, and cannot be changed or terminated orally.
13. Assignment. Neither party shall assign this Agreement without the other party's prior written consent. Any such assignment without the other party's prior written consent shall be void.
14. Amendment. The terms of this Agreement may be amended only in writing with the mutual approval of the parties. Any change in the amount of salary or employment benefits to be paid under this Agreement shall be in writing and mutually approved by the corporate authorities of the parties. Any changes to the work schedule or locations of work of the school crossing guards, can be mutually approved in writing by the Village Manager and the Superintendent without the need for an amendment to this Agreement.
15. Severability. If any provision of this Agreement or the application of any such provision to any party shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement shall not be affected, and each remaining provision of this Agreement shall be considered valid and shall be enforced to the fullest extent permitted by law.
16. Waiver. The failure of any party to demand strict compliance with the terms and conditions of this Agreement on any one occasion shall not prohibit the parties from demanding strict compliance on any future occasion.

17. Effective Date. This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below the signature of their duly authorized representatives.

VILLAGE OF RIVERSIDE

By: Benjamin Sells
Village President

Date: 11/5/2015

Attest: Cathy Heley
Village Clerk

Date: 11/5/2015

**BOARD OF EDUCATION OF RIVERSIDE
PUBLIC SCHOOLS DISTRICT 96**

By: [Signature]
Board President

Date: 10/20/15

Attest: [Signature]
Board Secretary

Date: 10/20/15

VILLAGE OF RIVERSIDE

BOARD MEETING

AGENDA ITEM -HISTORY/COMMENTARY

ITEM TITLE: INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF RIVERSIDE AND RIVERSIDE SCHOOL DISTRICT NUMBER 96 RELATIVE TO THE EMPLOYMENT OF SCHOOL CROSSING GUARDS

AGENDA No.:

VI. I.

MEETING DATE: NOVEMBER 5, 2015

Village President, Ben Sells: _____

LEGAL REVIEW: _____

Village Attorney: _____

RECOMMENDED FOR BOARD ACTION: _____

Village Manager: _____

[Signature]

ITEM HISTORY (PREVIOUS VILLAGE BOARD REVIEWS, ACTIONS RELATED TO THIS ITEM, COMMITTEE ACTION, OTHER PERTINENT HISTORY):

Article VII, Section 10 of the Illinois Constitution of 1970, authorizes units of local government and school districts to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance. The Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government or school district may be exercised and enjoyed jointly with any other unit of local government or school district.

In December 2013, the Village Board approved an intergovernmental agreement with School District 96. In December 2014, the Village received an approved intergovernmental agreement, however, the information was dated, and based on the scheduling changes made by District 96, needed to be modified. In January 2015, staff presented the executed agreement to the Village Board, but did not recommend it for approval based on language within the document that would require this matter to be addressed annually. At that meeting, the Village Board directed the Village Manager to work with representatives of the School District to finalize the agreement.

ITEM COMMENTARY (BACKGROUND, DISCUSSION, KEY POINTS, RECOMMENDATIONS):

Though an intergovernmental agreement has yet to be approved, District 96 is reimbursing the Village for 50% of the cost of all crossing guards, with the exception of the 1st and Forest Avenues intersection. This expense is shared by the Village, District 96 and District 208.

The Village Manager worked with Interim Superintendent Patrick Patt to make revisions to the previous agreement incorporating changes to ensure that the agreement would not need to be revisited annually. The new agreement provides parameters of reimbursement and annual increases in the cap amount based on the Consumer Price Index. The new agreement allows flexibility for the Police Department to manage the hours of the crossing guards, while providing a cap in the hours to be reimbursed by the School District. Additionally, the agreement shall renew annually, unless notice is provided by either party to terminate the agreement. Both the Village Attorney and School District Attorney reviewed the modifications. The new agreement was approved by District 96 on October 20th.

ACTION PROPOSED:

OPTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF RIVERSIDE AND RIVERSIDE SCHOOL DISTRICT NUMBER 96 RELATIVE TO THE EMPLOYMENT OF SCHOOL CROSSING GUARDS