

STATE OF INDIANA
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

ORDINANCE NO. 2018 – OR – 026

**AN ORDINANCE AUTHORIZING THE ENTRY INTO AN INTERLOCAL
COOPERATION AGREEMENT REGARDING ECONOMIC DEVELOPMENT
INCOME TAX FUNDS.**

WHEREAS, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

WHEREAS, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

WHEREAS, due to an interpretation issued by the Indiana Department of Local Government Finance (“DLGF”), Clark County is expected to receive approximately four hundred thousand dollars (\$400,000) less in Economic Development Income Tax (“EDIT”) funds from the state of Indiana during 2019, 2020, and 2021; and,

WHEREAS, due to said shortfall the Clark County Council is considering a new tax that would greatly reduce Sellersburg and other Clark County taxing units’ share of EDIT funds; and,

WHEREAS, in an effort to assist Clark County in making up for this anticipated shortfall and avoid significant cuts to Sellersburg and other municipalities’ share of EDIT funds, an Interlocal Agreement between Clark County, Indiana, the City of Jeffersonville, the Civil Town of Clarksville, the City of Charlestown, the Town of Sellersburg, the Town of Borden, and the Town of Utica Regarding Distribution of Economic Development Income Tax Funds, a copy of which is attached hereto as Exhibit A. (“Interlocal Agreement”); and,

WHEREAS, under the Interlocal Agreement, each municipality that adopts it withholds from their share of EDIT funds an amount determined by taking the county's anticipated shortfall multiplied by said municipality's percentage of EDIT funds; and,

WHEREAS, Sellersburg is projected to receive significantly more EDIT funds under the Interlocal Agreement than Sellersburg would receive if Clark County enacted a new tax to make up the anticipated shortfall.

NOW THEREFORE BE IT ORDAINED by this Town Council of Sellersburg, Indiana as follows:

1. This Council does hereby authorize and approve the entry into the Interlocal Agreement attached hereto as Exhibit A.
2. This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

So Ordained this 8 day of October, 2018

[Signature page to follow]

"Aye"

"Nay"

Paul J. Rhodes
Paul J. Rhodes
Council President

Paul J. Rhodes
Paul J. Rhodes
Council President

Brad Amos
Brad Amos
Council Vice President

Brad Amos
Brad Amos
Council Vice President

Martina Webster
Martina Webster
Council Member

Martina Webster
Martina Webster
Council Member

Jim LaMaster
Jim LaMaster
Council Member

Jim LaMaster
Jim LaMaster
Council Member

William Conlin
William Conlin
Council Member

William Conlin
William Conlin
Council Member

Michelle D. Miller
Attested by: Michelle Miller
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 10/8/18

MOTION: Webster

SECOND: Conlin

VOTE: 5 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 10/8/18

MOTION: Webster

SECOND: LaMaster

VOTE: 5 AYE 0 NAY 0 ABSTAIN

EXHIBIT A

INTERLOCAL AGREEMENT BETWEEN CLARK COUNTY, INDIANA, THE CITY OF JEFFERSONVILLE, THE CIVIL TOWN OF CLARKSVILLE, THE CITY OF CHARLESTOWN, THE TOWN OF SELLERSBURG, THE TOWN OF BORDEN AND THE TOWN OF UTICA REGARDING DISTRIBUTION OF ECONOMIC DEVELOPMENT INCOME TAX FUNDS

THIS AGREEMENT is entered into by and between Clark County, Indiana (hereinafter referred to as the “County”); the City of Jeffersonville (“Jeffersonville”); the Civil Town of Clarksville (“Clarksville”); the City of Charlestown (“Charlestown”); the Town of Sellersburg (“Sellersburg”); the Town of Borden (“Borden”); and, the Town of Utica (“Utica”).

Section 1. Duration and Termination

This Interlocal Agreement (“Agreement”) shall become effective upon approval of the County, Jeffersonville, Clarksville, Charlestown, Sellersburg, Borden, and Utica. This agreement shall remain in effect for calendar years 2019, 2020, 2021, and 2022, subject to the terms herein.

Section 2. Purpose.

The purpose of this agreement is to provide for the distribution of Economic Development Income Tax (“EDIT”) funds during 2019, 2020, and 2021 to lessen the impact on the County of the Department of Local Government Finance’s (DLGF) interpretation of House Enrolled Act 1489, (P.L. 199-2018).

Section 3. Manner of Financing, Staffing, and Supplying the Joint Undertaking of this Interlocal Agreement.

- a. The County has imposed an Economic Development Income Tax for Clark County, Indiana and receives funds generated by the tax ("EDIT funds") from the State of Indiana, making it the lead local agency for EDIT funds.
- b. Each month, based on a formula received from the Department of Local Government Finance ("DLGF"), the County distributes a share of EDIT funds to each appropriate taxing unit in Clark County, Indiana ("distributive share"), including to itself.
- c. In 2017, to assist Clark County in its financial situation, House Enrolled Act 1489 ("HEA 1489") was enacted.
- d. Based on HEA 1489, Clark County was anticipating a certain distributive share of EDIT funds.
- e. The DLGF has interpreted HEA 1489 in a manner that reduces the County's anticipated distributive share of EDIT funds in 2019, 2020, and 2021.
- f. The municipalities adopting this Agreement wish to assist the County in making up the anticipated shortfall in its distributive share of EDIT funds in 2019, 2020, and 2021.
- g. For calendar years 2019, 2020, and 2021 only, each municipality that adopts this Interlocal Agreement agrees that the County shall withhold from the respective municipality's distributive share of EDIT funds for the year an amount determined by taking the expected County shortfall times that municipality's proportion of EDIT funds (as determined by the DLGF) that the municipality would have received for the year. (By way of example only, if, because of the DLGF's interpretation of HB 1489, Clark County receives \$400,000 less in EDIT funds in 2019 than it otherwise would have, and

Jeffersonville's 2019 share of EDIT funds would have been 40%, then the County will withhold 40% of \$400,000 from Jeffersonville's EDIT funds).

- h. To determine the County's expected shortfall each year of this Agreement, the municipalities adopting this Agreement shall provide to the County Auditor by December 1 each year what they jointly believe the County's expected shortfall in its distributive share of EDIT funds will be in the following year ("proposed shortfall number"). The County Auditor will then have no more than ten (10) working days to reject the proposed shortfall number by providing written notification to the respective financial officer of each municipality. If the County Auditor does not provide such timely notice, then the proposed shortfall number shall be deemed accepted and apply to the following year. If the County Auditor does provide timely notice of rejection of the proposed shortfall number, then the respective financial officers of each municipality and the County Auditor shall negotiate the shortfall number.
- i. In the event that any municipality or municipalities identified hereinabove fails to approve this Agreement by adoption of a resolution, the shortfall assigned to that municipality shall be proportionally divided among and withheld from the distributive shares of the municipalities that approve this Agreement by resolution in a manner that makes the County whole for its EDIT distribution shortfall.
- j. Upon elimination of the effect of the DLGF's interpretation of HEA 1489, through enactment of corrective legislation or otherwise, then the provisions of Section 3(g) and Section 3(h) shall automatically terminate and no longer apply.
- k. If during the term of Agreement, the County adopts any new taxes, ordinances, or resolutions that will adversely affect the municipalities' distributive shares or distribution

amounts of LIT EDIT, then Section 3(g) and Section 3(h) shall immediately and automatically terminate, and the County shall repay each municipality that is a party to this Agreement, any amounts of EDIT funds withheld during prior years from the affected municipalities under Section 3(g) and Section 3(h).

1. Pursuant to IC 36-1-7-4(a), the Clark County Auditor is hereby delegated the duty to receive, disburse, and account for all monies of this joint undertaking.

Section 4. No Liability Incurred by Operation of This Agreement.

Nothing in the performance of this Agreement shall impose any liability for claims against the Town or the County except among them as expressly set forth herein.

Section 5. Indemnity.

Each party to this Agreement will be responsible for its own actions under this agreement and shall not be liable for any civil liability that may arise from the actions of the other parties. Each party shall indemnify and hold harmless the other parties for civil liability that may arise from that party's acts or omissions.

Section 6. Administration of Interlocal Agreement.

The interlocal agreement shall be administered by the Clark County Auditor or their respective designees. These persons shall be authorized to perform all duties and carry out all functions as are necessary to carry out this Agreement.

Section 7. Acquiring, Holding, and Disposing of Property. No acquisition, holding, or disposal of property is anticipated to be required in the performance of this Agreement.

Section 8. Miscellaneous.

By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those expressly set out herein. This Agreement shall not create any rights in any person or entity that is not a signatory hereto.

[The remainder of this page was intentionally left blank. Signature pages to follow.]

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of Clark County, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

CLARK COUNTY COMMISSIONERS

By: _____

Name: _____

Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Auditor of Clark County, Indiana, hereby attests that on this _____ day of _____, 2018, he personally witnessed the execution of this Agreement by _____, the duly authorized President of the Board of Clark County Commissioners. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Board of Clark County Commissioners in accordance with the provisions of applicable Indiana law.

R. Monty Snelling, Clark County Auditor

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of Clark County, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

CLARK COUNTY COUNCIL

By: _____
Name: _____
Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Auditor of Clark County, Indiana, hereby attests that on this _____ day of _____, 2018, he personally witnessed the execution of this Agreement by _____, the duly authorized President of the Clark County Council. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Clark County Council in accordance with the provisions of applicable Indiana law.

R. Monty Snelling, Clark County Auditor

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the City of Jeffersonville, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

CITY OF JEFFERSONVILLE

By: _____
Name: _____
Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk of Jeffersonville, Indiana, hereby attests that on this _____ day of _____, 2018, she personally witnessed the execution of this Agreement by Mike Moore, the duly authorized Mayor of the City of Jeffersonville. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Jeffersonville City Council in accordance with the provisions of applicable Indiana law.

Vicki Conlin, Clerk
City of Jeffersonville

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the Town of Clarksville, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

For Clarksville:

By: _____

Name: _____

Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk-Treasurer of Clarksville, Indiana, hereby attests that on this _____ day of _____, 2018, he personally witnessed the execution of this Agreement by _____, the duly authorized President of the Clarksville Town Council. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Clarksville Town Council in accordance with the provisions of applicable Indiana law.

Robert Leuthart, Clerk-Treasurer

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the City of Charlestown, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

CITY OF CHARLESTOWN

By: _____

Name: _____

Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk of Charlestown, Indiana, hereby attests that on this _____ day of _____, 2018, she personally witnessed the execution of this Agreement by Mike Moore, the duly authorized Mayor of the City of Charlestown. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Charlestown City Council in accordance with the provisions of applicable Indiana law.

Donna Coomer, Clerk
City of Charlestown

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the Town of Sellersburg, Indiana by the undersigned as its duly authorized officials and representatives this 8th day of October, 2018.

For Sellersburg:

By: PAUL J RHODES
Name: Paul J Rhodes
Its: TOWN COUNCIL PRESIDENT

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk-Treasurer of Sellersburg, Indiana, hereby attests that on this 8th day of October, 2018, she personally witnessed the execution of this Agreement by Paul Rhodes, the duly authorized President of the Sellersburg Town Council. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Sellersburg Town Council in accordance with the provisions of applicable Indiana law.

Michelle D. Miller
Michelle Miller, Clerk-Treasurer

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the Town of Borden, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

For Borden

By: _____

Name: _____

Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk-Treasurer of Borden, Indiana, hereby attests that on this _____ day of _____, 2018, she personally witnessed the execution of this Agreement by _____, the duly authorized President of the Borden Town Council. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Borden Town Council in accordance with the provisions of applicable Indiana law.

Mindi Holmes, Clerk-Treasurer

IN WITNESS WHEREOF this Interlocal Agreement Regarding Distribution of Economic Development Income Tax Funds is executed on behalf of the Town of Utica, Indiana by the undersigned as its duly authorized officials and representatives this _____ day of _____, 2018.

For Utica

By: _____

Name: _____

Its: _____

Attestation and Certification:

The undersigned, as the duly elected and serving Clerk-Treasurer of Utica, Indiana, hereby attests that on this _____ day of _____, 2018, he personally witnessed the execution of this Agreement by _____, the duly authorized President of the Utica Town Council. The undersigned further hereby certifies that this Agreement is a true and correct copy of the Agreement approved by ordinances enacted by the Utica Town Council in accordance with the provisions of applicable Indiana law.

Patricia A. Love, Clerk-Treasurer

