

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made by and between the Town of Bargersville, a municipal corporation in the State of Indiana, by and through its Town Council, ("Bargersville") and Johnson County, Indiana, by and through its Board of Commissioners (the "County"). The County and Bargersville may be referred herein jointly as "Parties" or individually as a "Party."

RECITALS

WHEREAS, the Town and the County have caused to be prepared by A&F Engineering ("A&F") the Johnson County and Town of Bargersville Road Impact Fee Zone Improvement Plan (the "Zone Improvement Plan");

WHEREAS, the Town and County find that it is reasonable and necessary to promote and accommodate orderly growth and development and to protect the public, healthy, safety and general welfare of the Citizens of the Town and County by provide for an equitable program to funds the capital costs of new road and street infrastructure necessary to serve newly developing areas of the Town and County;

WHEREAS, the Town has planning and zoning jurisdiction over the portion of the Zone Improvement Area within the municipal limits of the Town;

WHEREAS, the County has planning and zoning jurisdiction over the portion of the Zone Improvement Area within the unincorporated Johnson County;

WHEREAS, the County pursuant to the an Interlocal Agreement for road maintenance dated 1/28/2021 has jurisdiction over certain road and streets within the Town limits that are within the Zone Improvement Area;

WHEREAS, it is necessary for the Town and the County to enter into an Interlocal Agreement concerning the collection and disbursement of Impact Fees collected by the Town and the County;

WHEREAS, Indiana Code § 36-1-7 et. seq. permits Interlocal Agreements by and between governmental entities and this Agreement is made pursuant to its provisions.

AGREEMENT

NOW THEREFORE, Town and County, in consideration of the foregoing premises, agree as follows:

Section 1. Mutual Representations. Each Party hereto represents to the other Party that:

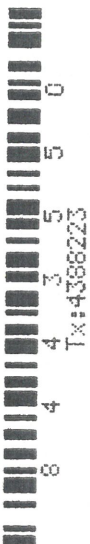
FILED

SUBJECT TO FINAL ACCEPTANCE

FEB 22 2021

Paula J. Burton
AUDITOR, JOHNSON COUNTY

**Sale Disclosure NOT Required
Johnson County Assessor**



A. The Party has all the requisite power and authority to carry out the obligations set forth in the Agreement.

B. The Party has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement.

C. This Agreement has been duly entered into and delivered and constitutes a legal, valid, and binding obligation of the Party.

Section 2. Purpose. The purpose of this Agreement is to provide for the collection, processing and distribution of funds collected pursuant to the Zone Improvement Plan.

Section 3. Establishment of Impact Zone. The Town and County established the Impact Zone pursuant to Ordinances adopted by the Town and County. Map of the Impact Zone for the Town and County is attached hereto, made a part hereof and collectively marked as Exhibit "A."

Section 4. Obligations of the Town of Bargersville. Beginning on the effective date of this Agreement, the Town shall be responsible for:

- A. Collection of the Impact Fee for all improvement location permits issued by the Town of Bargersville Department of Development;
- B. Applying the Impact Fee uniformly to all developments within the Impact Zone.
- C. Depositing in a separate fund all the Impact Fee revenue collected by the Town.
- D. Charging the same Impact Fee as the County.
- E. Disbursing the Town's share of Impact Fee funds upon the Town receiving 14 days advance written notice upon the beginning of certain project phases (Design, R/W Services & Acquisition, Construction, and Construction Inspection) for a road improvement project. The Town shall disburse funds to the County and the County shall provide receipt of funds and any and all other documentation that may be requested by the Town (including but not limited to progress reports on road projects).
- F. Disbursing to the County on a quarterly basis all Bridge Fee Funds collected by the Town on behalf of the County. Town shall deposit Bridge Fee Funds into a separate account.
- G. Providing to the County on a semi-annual basis an accounting of all Impact Fees collected by the Town.
- H. Compliance with all applicable rules, regulations, ordinances, statutes and laws.
- I. Taking all other action necessary or convenient within its authority and consistent with the intent of this Agreement to facilitate and accomplish the prompt and safe execution of the purposes of this Agreement.

- J. Project management, including but not limited to consultant selection, bidding, contract administration, and inspection for road improvement projects on the Town's inventory.
- K. Providing to the County semi-annual updates of progress of road improvement projects.
- L. Provide notice of anticipated construction start date for each road improvement project upon completion of right-of-way acquisition for the project.

Section 5. Obligations of Johnson County. Beginning on the effective date of this Agreement, the County shall be responsible for:

- A. Collection of the Impact Fee for all improvement location permits issued by the Johnson County Planning and Zoning Department.
- B. Applying the Impact Fee uniformly to all permits within the Impact Zone.
- C. Depositing in a separate fund all the Impact Fee revenue collected by the County.
- D. Charging the same Impact Fee as the Town.
- E. Disbursing the County's share of Impact Fee funds upon the beginning of certain project phases (Design, R/W Services & Acquisition, Construction, and Construction Inspection) for road improvement projects. The County shall provide to the Town proof of disbursement of funds for its share and any and all other documentation that may be requested by the Town (including but not limited to progress reports on road projects).
- F. Providing to the Town on a semi-annual basis an accounting of all Impact Fees collected by the County.
- G. Compliance with all applicable rules, regulations, ordinances, statutes and laws.
- H. Taking all other action necessary within its authority and consistent with the intent of this Agreement to facilitate and accomplish the prompt and safe execution of the purposes of this Agreement.
- I. Project management, including but not limited to consultant selection, bidding, contract administration, and inspection for road improvement projects on the County's inventory.
- J. Collection and depositing of Bridge Fee Fund into a separate account.
- K. Providing semi-annual reports of progress of road improvement projects
- L. Provide notice of anticipated construction start date for each road improvement project upon completion of right-of-way acquisition for the project.

Section 6. Road Improvement Projects.

(A) The Zone Improvement Plan identified road improvement projects for which the Impact Fees collected by the Town and County must be used. The Town and County shall each select one (1) road improvement project from the Zone Improvement Plan and the Town and County shall jointly select one (1) road improvement project. The jointly selected road

improvement project shall be a road improvement project which is located within the Town limits and on a road which is on the County's certified road inventory. The three road improvement projects shall be ranked in order of priority at the meeting. The Town and County will endeavor to complete the road improvement projects in the order of priority, and the design phases for all three projects will generally be initiated at the same time. However, the Town and County acknowledge and understand that each project is unique and project-specific development timelines may be such that the road improvement projects are not completed in the order of priority as decided at the joint meeting. If the road improvement projects are not going to be completed in order of priority the party responsible for management of the road improvement project shall provide as much advance written notice as possible to the other party of the intention to deviate from the order of priority.

(B) The Town and County have agreed to begin project development for the following road improvement projects first:

Joint Selection: Intersection #55 County Road 144 and Morgantown Road

County Selection: Intersection #32 Olive Branch and Mullinix Road

Town Selection: Intersection #56 County Road 144 and Saddle Club Road

(C) Upon substantial completion of the three selected road improvement projects, the Town Manager, County Highway Director, one member of the Town Council and one member of the County Commissioners shall meet to select three additional road improvement projects from the Zone Improvement Plan to begin developing, according to the procedure set forth in Section 6(A).

After the three road improvement projects have been selected and prioritized, the three road improvement projects chosen then must be approved by the County Commissioners and Town Council before any funds are spent on those projects. This process shall be repeated as necessary to complete the objectives of this Agreement. Neither the Town nor County may begin development of a road improvement project with the use of impact fee funds that is not approved at the joint meeting.

(D) The Town and County may consider the following factors when selecting which road improvement projects from the Zone Improvement Plan to undertake, including but not limited to:

(1) Location of the project in conjunction with the amount of impact fees collected within a reasonable distance of the road project;

(2) Which Party (the Town or County) has collected the majority of the impact fee revenue;

(3) The current road and traffic conditions;

- (4) Input from the Town Manager and Johnson County Highway Director;
- (5) Current development and projected future development;
- (6) Previously completed projects or projects currently being developed; and
- (7) Estimated timeframe for completion of project, based on site conditions, complexity, and other reasonable considerations.

Section 7. Project Funding. Parties agree that all impact fee revenue, though collected separately by each party based on jurisdictional boundaries, is considered a single collective funding source intended to complete the projects identified in the Zone Improvement Plan. Parties shall endeavor to share the costs for all the projects equally. The Town and County acknowledge and understand that actual impact fee revenue received by each party may not allow for equal cost sharing on some projects or project phases. The parties may jointly agree to equitable funding contributions for certain projects or project phases based on actual revenue received in order to advance project development. If a Party covers more than 50% on a project or any phase of a project the other Party shall if possible make up the difference on a future project or phase of a project so that each party shares equally in the cost of the projects.

Section 8. Impact Appeals Board. The Town and County are required by statute to each have an Appeal Board whose purpose is to review appeals of the impact fee. The Town and the County shall appoint the same individuals to their respective Appeal Boards.

Section 9. Effective Date. This Agreement shall be effective upon the latest date of: signing by the fiscal bodies of each Party. Pursuant to Ind. Code § 36-1-7-6, not later than sixty (60) days after it takes effect, this Agreement shall be filed with the State Board of Accounts for audit purposes.

Section 10. Term. The terms of this Agreement shall be from the date upon which the Agreement is fully effective through December 31, 2024

Section 11. Force Majeure. In the event that any Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster, decrees of governmental bodies, or any other cause genuinely and demonstrably beyond the control of the affected Party, and which as a result thereof, causes such nonperformance (hereinafter referred to as a force majeure event), the Party who has been so affected shall immediately give notice to the other Parties and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended until the Force Majeure Event is no longer an impediment to performance.

Section 12. Dispute Resolution. In the event disputes arise out of this Agreement the Town Manager and Johnson County Highway Director shall attempt to resolve the dispute between themselves. If the Town Manager and Johnson County Highway Director are unable to

resolve the dispute then the Executive Officers of the County and Town shall attempt to resolve the dispute. In the event the Executive Officers of the County and Town are unable to resolve the dispute the Parties agree to hire a third-party mediator to attempt to resolve the dispute. The Parties agree to split the costs equally of mediation.

Section 13. Record Keeping. Each Party shall maintain records relating to its respective obligations. Upon request, each Party shall make its record available for inspection by the other Parties.

Section 14. Municipal Contract Provisions. This Agreement incorporates by reference all provisions required to be included in municipal contracts under state law.

Section 15. Termination. Any Party may terminate this Agreement upon ninety (90) days' written notice for cause and/or convenience. In the event of termination of this Agreement, the Parties shall cooperate to ensure orderly transition of project phases. If appropriate, this transition may involve compensation on a mutually agreed upon basis for project phases left pending after termination of the Agreement and after the transition.

Section 16. Confidentiality.

A. Parties understand that the information provided to it or obtained from other Parties during the performance of this Agreement may be confidential and such confidential information may not, without proper written consent of the affected Party, be disclosed except to employees or agents of a Party who have a need to know in order to perform the Agreement. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records. Confidential information shall not include information, that: (a) was known by a Party at the time it was received; (b) is, as of the time of its disclosure or thereafter becomes, part of the public domain through a source other than a Party; (c) is made known to a Party by a third person who through a source other than a Party; (c) is made known to a Party by a third person who does not impose any obligation of confidence on a Party with respect to such information; (d) is required to be disclosed pursuant to governmental authority, law, regulation, duly authorized subpoena or court order whereupon a Party shall provide notice to the affected Party prior to such disclosure; or (e) information that is independently developed by a Party without references to the confidential information.

B. A Party shall not, under any circumstances, release information provided to it by, or on behalf of, another Party that is required to be kept confidential pursuant to Indiana law or court order.

Section 17. Miscellaneous Provisions.

A. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties and supersedes all prior Agreement, written or oral, between the Parties with respect to the services described herein. No statements, promises or Agreements whatsoever, written or oral, in conflict with the terms of the Agreement have been made by the Parties which in any

way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by all Parties.

B. **Applicable Law; Forum.** Parties agree to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances and all provisions required thereby to be included herein are hereby incorporated by reference. This Agreement shall be construed and interpreted in accordance with the laws of the State of Indiana. The Parties agree that any action related to this Agreement shall be brought in Johnson County, Indiana.

C. **Severability.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law; but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

D. **Waiver.** A Party's delay or inaction in pursuing any of its remedies set forth in this Agreement or available by law shall not operate in any way as a waiver of the Party's rights or remedies. No single or partial exercise of any right or remedy shall operate as a waiver or preclusion to the exercise of any other rights or remedies a Party may have under this Agreement or applicable law.

E. **Binding Effect.** This Agreement shall bind all of the Parties hereto and their respective heirs, personal representatives, successors, and assigns.

F. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which taken together shall constitute the same Agreement.

G. **Time.** Time is of the essence for this Agreement.

H. **Headings.** The headings of the various paragraphs and sections of this Agreement are for convenience and reference only and shall not be deemed to modify or restrict the terms of provisions hereof.

I. **Construction.** This Agreement shall not be construed more strictly against a Party merely by virtue of the fact that the same has been prepared by a Party or its counsel, it being recognized that all Parties have contributed substantially and materially to the preparation of this Agreement and each of the Parties waives any claim contesting the existence and the adequacy of the consideration given by any of the other Parties hereto in entering into this Agreement.

J. **Authority.** The execution, delivery, and performance of this Agreement are within the powers of the undersigned Parties, have been duly authorized, and are not in contravention of any law, rule or regulation, or any judgment, decree, writ, injunction, order or award of any arbitrator, court, or governmental authority, or the terms of any organizational documents, law, regulation or undertaking to which any Party may be a party or by which they may be bound.

K. **Consent.** The Parties acknowledge that they have thoroughly read and reviewed the terms and provisions of this Agreement and are familiar with the same and acknowledge that the terms and provisions contained herein are clearly understood by them and have been fully consented to by them and that they had the full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel of their own selection. The Parties further acknowledge that this Agreement has been entered into by them freely, voluntarily, with full knowledge, and without duress and that in executing this Agreement the Parties are relying on no other representations, either written or oral, express or implied, made to them by any other Party hereto.

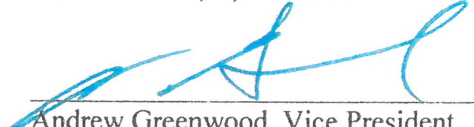
L. **Assignment.** No assignment of this Agreement or of any interest therein shall be binding upon either Party hereto without the prior written consent of the other Party.

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All of which is agreed to this 9th day of February, 2021

TOWN OF BARGERSVILLE


James Rumelt, II, President



Andrew Greenwood, Vice President


Susie Qualls, Member


Ruth Ann Moore, Member

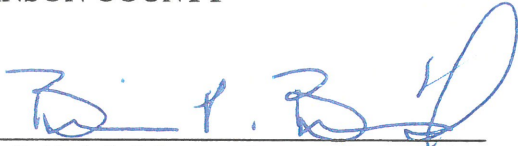

R. Dustin Doyle, Member

Attest:


Nancy Kehl, Clerk-Treasurer

All of which is agreed to this 8th day of February, 2021

JOHNSON COUNTY



Brian P. Baird, Johnson County Commissioner



Kevin M. Walls, Johnson County Commissioner


Ronald H. West, Johnson County Commissioner

Attest:



Pamela J. Burton, Auditor

I affirm under penalties for perjury that I have taken reasonable care to redact have social security number in this document, unless required by law.


Shena T. Johnson

Prepared by Shena T. Johnson, Attorney-at-Law (29549-49)
86 W COURT ST Franklin, IN 46131

All of which is agreed to this 8th day of February, 2021.

JOHNSON COUNTY COUNCIL

AYES



Rob Henderson, President

Jim Ison, Vice-President



Ron Deer

Melinda Griesemer



Pete Ketchum

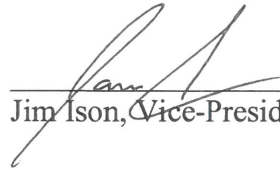


John E. Myers

Jonathan T. Myers

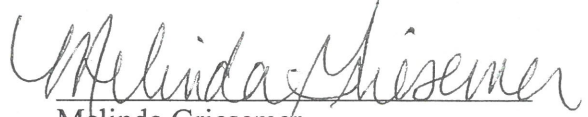
NAYS

Rob Henderson, President



Jim Ison, Vice-President

Ron Deer



Melinda Griesemer

Pete Ketchum

John E. Myers



Jonathan T. Myers

Attest:



Pamela J. Burton, Auditor

Exhibit A - Impact Zone

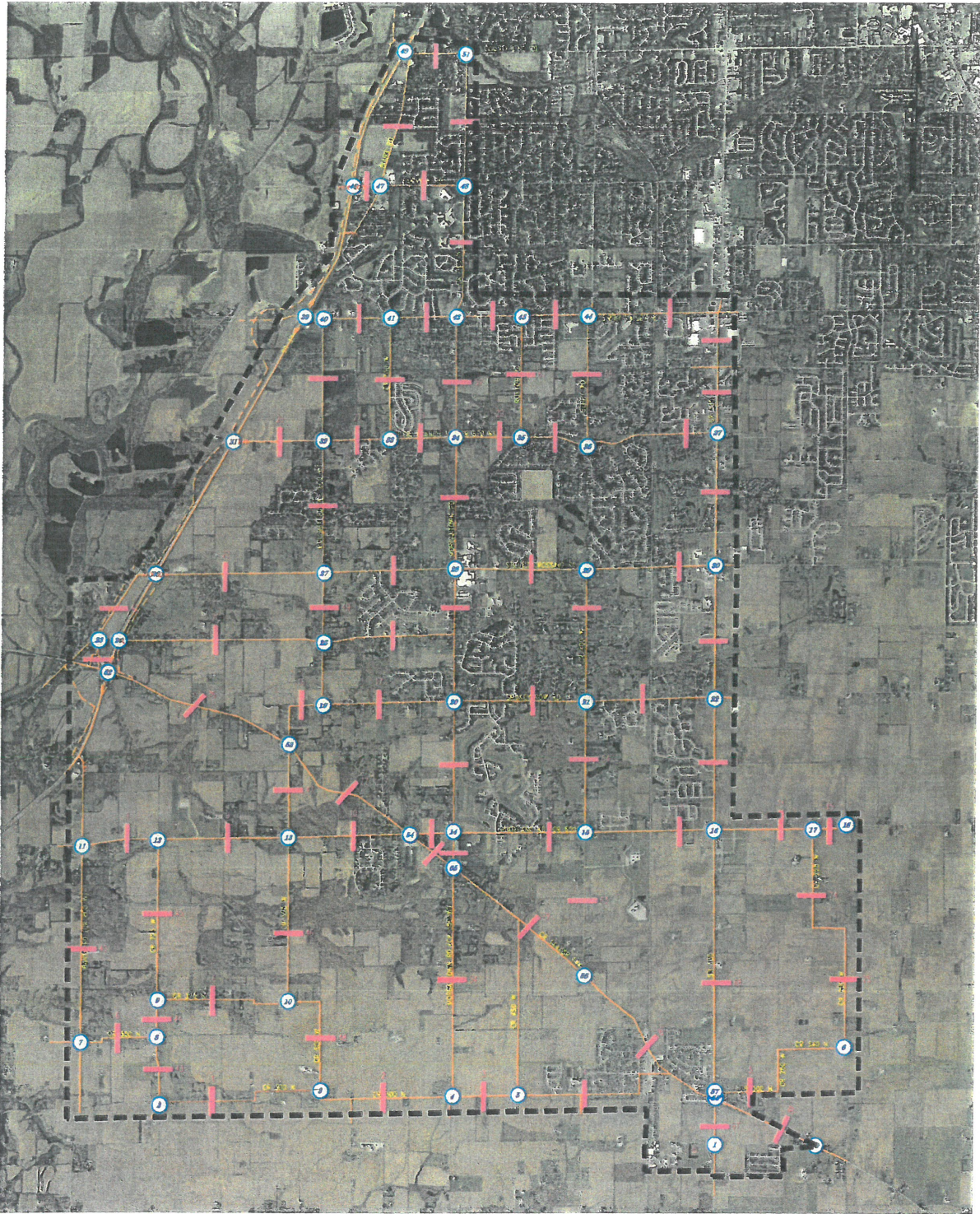




FIGURE 1
ZONE IMPROVEMENT
PLAN AREA
STUDY ROADWAY NETWORK

JOHNSON COUNTY
TOWN OF BARGERSVILLE

LEGEND	
	ROADWAY SEGMENT COUNTS
	STUDY INTERSECTIONS/TRAFFIC COUNTS
	ZONE IMPROVEMENT PLAN AREA

A&F ENGINEERING
 Transportation & Site Engineering
 Creating Order Since 1966

2:10/1/15/2020 - BARGERSVILLE IMPACT FEE STUDY (LAWRENCE) UNACQUAINTED COUNTY ENGINEERING 1-11-2020-09-15 A24