

STATE OF INDIANA

BEFORE THE BOARD OF COMMISSIONERS OF FLOYD COUNTY

Resolution No. 2021-08

**A RESOLUTION APPROVING AN INTERLOCAL COOPERATION AGREEMENT**

WHEREAS, this Board of Commissioners of Floyd County, Indiana (this "Board"), is the legislative body of the Floyd County, Indiana government unit (the "County"); and,

WHEREAS, Bridge No. 51 (Blackiston Mill Road) is under the ownership and control of the County, and based on professional engineering advice is in need of replacement and relocation (the "Project"); and,

WHEREAS, this Board is willing to undertake the construction of the Project; and,

WHEREAS, the construction of the contract will require the acquisition of 10 parcels of real property within the boundaries of the Town of Clarksville, Indiana (the "Town"), which parcels are listed in Exhibit "A" attached hereto; and,

WHEREAS, this Board has requested that the Town acquire such properties in its name subject to the terms and conditions of the interlocal agreement attached hereto as Exhibit "B"; and,

WHEREAS, this Board now finds that the interlocal cooperation agreement is in the best interests of the citizens of the County and should be approved by the adoption of this Resolution in accordance with the provisions of Ind. Code § 36-1-7-2; and,

WHEREAS, this Board now adopts this Resolution in order to comply with the procedural requirements of said statute.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FLOYD COUNTY, INDIANA, as follows:**

NOW, THEREFORE, THE COUNTY AND THE TOWN agree as follows:

**Section 1. Purpose of Agreement; Retention of Attorney to Negotiate Acquisition of the Town Parcels.** The Town agrees to retain its attorney, C. Gregory Fifer, of the firm o Applegate Fifer Pulliam LLC (the “Attorney”), to negotiate the purchase of the Town Parcels in the name of the Town on terms and conditions that are reasonably acceptable to the County. The Attorney shall be responsible for performing the following actions:

A. The Attorney shall retain one (1) or more licensed real estate appraisers to prepare an Appraisal Report, Short Form Appraisal, and/or Statement of Just Compensation for the Town’s acquisition of the Town Parcels (each an “Appraisal”). Copies of the Appraisal shall be provided to the County Operations Manager, Floyd County Attorney, and the Town Manager.

B. Unless the County separately retains a buying consultant to satisfy the requirements of the Indiana Department of Transportation, the Attorney shall prepare uniform acquisition offers based on each Appraisal in the form provided by Ind. Code § 32-24-1-5 and provide service of the offers to the record owners of each Town Parcel.

C. The Attorney shall conduct good faith settlement negotiations with the record owners of each Town Parcel and/or their legal counsel. All final decisions regarding amounts to be offered or paid to acquire each Town Parcel shall be communicated to the County through the Floyd County Attorney, and shall be subject to final approval by majority vote of the Board.

D. In the event that any offer is not accepted within thirty (30) days following its service on the record owners, the offer may be deemed as rejected by the Board, and the Board shall have the authority to direct the Attorney to file a complaint in the Clark Circuit Courts seeking to acquire the subject Town Parcel in the name of the Town by the exercise of its power of eminent domain.

E. The Attorney shall take all actions reasonably required to contest any objections filed with respect to the proposed taking of a Town Parcel in accordance with Ind. Code § 32-24-1-8.

F. Upon the overruling of any such objections, the Attorney shall take all actions reasonably required to have appraisers appointed, sworn, and instructed by the court to determine and report the value of the appropriated Town Parcel in accordance with Ind. Code § 32-24-1-9.

G. Upon the filing of the appraisers’ report, the Attorney shall take all actions reasonably necessary to deposit the damages assessment amount with the Clerk of the court, together with all fees assessed to the Town, as required to obtain an order directing the Clark County Auditor to transfer the Town Parcel on the Clark County Tax Records pursuant to Ind. Code § 32-24-1-10(b). Upon the entry of such order, the Town and the County shall adopt substantially similar resolutions authorizing the donation of each remaining Town Parcel to the County without payment of monetary compensation in accordance with Ind. Code § 36-1-11-8.

Upon the adoption of such resolutions, the Town shall quitclaim its interest in each remaining Town Parcel to the County.

H. The Board shall have sole authority to determine whether to direct the Attorney to file exceptions to any appraisers' report and request trial on the issue of damages by either bench trial or jury trial pursuant to Ind. Code § 32-24-1-11. Regardless of whether any such exceptions are filed, either by the Town or any record owners of a Town Parcel, the completion of this stage of the proceedings will conclude the Attorney's work under this Agreement, and the County shall retain successor counsel to try the issue of damages either in the name of the Town or the name of the County as its successor in interest. Nothing in this Agreement shall preclude the County from retaining the Attorney to provide such additional services if supplemental agreement is reached directly between them.

**Section 2. Duration of Agreement.** This Agreement shall be in full force and effect until possession of all of the Town Parcels has been obtained by the Town pursuant to the provisions of Ind. Code § 32-24-1-11, but in no event shall this Agreement extend for a period in excess of two (2) years unless renewed in a separate writing by the parties.

**Section 3. Financing, Staffing, Supplying, and Budgeting for the Joint Undertaking.** The County shall be solely responsible for financing and budgeting for the costs of acquiring the Town Parcels, including without limitation, the compensation due the Attorney, inclusive of any funds advanced by the Town for such costs pursuant to this Agreement. The Attorney shall provide all services under this Agreement at the rate of One Hundred Seventy-five Dollars (\$175.00) per hour, plus reimbursement without mark-up of all costs advanced. The Attorney shall maintain professional liability insurance in the amount of at least Three Million Dollars (\$3,000,000), and the Attorney shall provide proof of such coverage to the Floyd County Attorney on request. The parties acknowledge and agree that the Town may need or want to acquire additional parcels of real property on which to construct a new approach to the Bridge, and that such acquisitions and costs pertaining thereto are outside of the scope of this Agreement.

**Section 4. Termination of Agreement.** The County shall have the unilateral right to terminate this Agreement at any time, with or without cause, on giving ten (10) days written notice to the Town, with a copy to the Attorney. Within thirty (30) days following such termination, the Attorney will send the Town a final invoice for services performed and costs advanced through the termination date with a copy to the County. The County shall pay the Attorney's invoice, or reimburse the amount of the invoice paid by the Town, as the case may be, within thirty (30) days after the date of the invoice. The Attorney shall deliver copies of all files made and maintained regarding the acquisition of each Town Parcel within five (5) business days after the termination date.


**Section 5. Administration of Agreement.** No separate legal entity or joint board shall be formed to perform or provide any services under this Agreement.

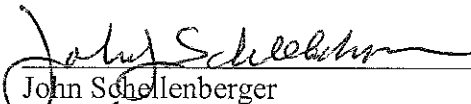
**Section 6. Governing Law.** This Agreement shall be construed and enforced under the laws of the State of Indiana.

**Section 7. Effective Date.** This Agreement shall be approved by the adoption of substantially similar resolutions by the County and the Town. The parties shall then execute the Agreement, and the Attorney shall execute the acknowledgement of agreement to provide services pursuant to the terms of this Agreement attached hereto as Exhibit "3", at which time this Agreement shall be in full force and effect.

So agreed this 6 day of July, 2021.

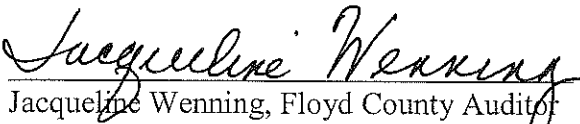
**BOARD OF COMMISSIONERS  
OF FLOYD COUNTY, INDIANA**

  
Shawn Carruthers, President

  
John Schellenberger

  
Tim Kamer

*Attested by:*

  
Jacqueline Wenning, Floyd County Auditor

**CLARKSVILLE TOWN COUNCIL  
OF FLOYD COUNTY, INDIANA**

By: \_\_\_\_\_  
Ryan Ramsey, President

*Attested by:*

\_\_\_\_\_  
Richard P. Leuthart, Clerk-Treasurer

## INTERLOCAL COOPERATION AGREEMENT

This Interlocal Cooperation Agreement (hereinafter referred to as the “Agreement”), is made by and between:

Floyd County, Indiana, acting by and through the Board of Floyd County Commissioners (the “Board”, and collectively also referred to as the “County”), an Indiana county government unit with an address of 2524 Corydon Ridge Road, Pine View Government Center, Suite 204, New Albany, Indiana 47150; and,

Town of Clarksville, Indiana, acting by and through the Clarksville Town Council (the “Town Council”, and collectively the “Town”), an Indiana municipal government unit with an address of Clarksville Municipal Government Center, 2000 Broadway, Clarksville, Indiana 47129.

### *RECITALS:*

**WHEREAS**, the County owns and has maintenance obligations for the Blackiston Mill Road Bridge over Silver Creek (commonly known as Bridge No. 51) (the “Bridge”);

**WHEREAS**, based on professional engineering evaluation and advice, the County has determined that the Bridge needs to be replaced and relocated as shown in the drawing attached hereto as Exhibit “1” (the “Project”); and,

**WHEREAS**, the relocation of the Bridge will necessitate the relocation of its approach in Clark County, and require acquisition of several parcels of real property within the municipal boundaries of the Town in Clark County that are listed on attached Exhibit “2” (the “Town Parcels”); and,

**WHEREAS**, County has been awarded, appropriated, or secured sufficient funds to construct the Project, including without limitation, the estimated costs for acquisition of the parcels of real property required to construct the Project; and,

**WHEREAS**, the Town Council finds that the construction of the Project is in the best interests of the public health and safety of its citizens, and now makes this Agreement pursuant to the provisions of Ind. Code Ann. § 36-1-7-3 for the purpose of establishing the terms and conditions on which the Town will reasonably cooperate with the County in the acquisition of the Town Parcels as needed to construct the Project.

**EXHIBIT “B”**


1. **Approval of Interlocal Cooperation Agreement; Town Commitment.** Pursuant to the provisions of Ind. Code § 36-1-7, *et seq.*, the interlocal cooperation agreement attached hereto as Exhibit "B" is hereby authorized and approved.

2. **Recordation.** In accordance with the provisions of Ind. Code § 36-1-7-6, the Floyd County Auditor shall record a certified copy of the fully executed interlocal cooperation agreement in the office of the Floyd County Recorder promptly following the later of the approval of the interlocal cooperation agreement by similar resolution adopted by the Town Council of the Town of Clarksville and the final adoption of this Resolution.

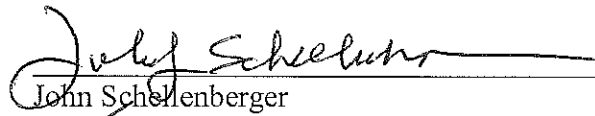
3. **Adoption of Resolution; Effective Date.** This Resolution shall be in full force and effect following its adoption, unless such date is extended by applicable Indiana law.

SO RESOLVED by majority vote of the entire membership of this Board of Commissioners of the Floyd County, Indiana, taken at a duly noticed and convened public meeting held on this 6 day of July, 2021.

**BOARD OF COMMISSIONERS OF  
FLOYD COUNTY, INDIANA**



Shawn Carruthers, President

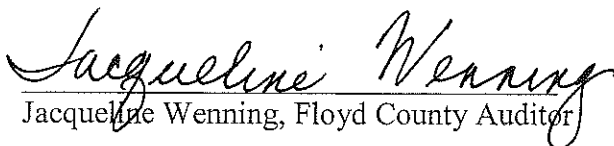


John Schellenberger



Tim Kamer

Attested by:



Jacqueline Wenning, Floyd County Auditor

**EXHIBIT "A"**

**LIST OF PROPERTIES TO BE ACQUIRED WITHIN THE  
TOWN OF CLARKSVILLE FOR CONSTRUCTION OF THE  
BRIDGE 51 (BLACKISTON MILL ROAD) REPLACEMENT PROJECT**

**EXHIBIT "B"**

**INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN  
FLOYD COUNTY, INDIANA, AND THE TOWN OF CLARKSVILLE, INDIANA**



**EXHIBIT "1"**

**MAP SHOWING INTENDED LOCATION OF REPLACEMENT BRIDGE**

**EXHIBIT "2"**

**LIST OF TOWN PARCELS**

**EXHIBIT “3”**

**ACKNOWLEDGMENT OF ATTORNEY OF WILLINGNESS TO  
PERFORM SERVICES PURSUANT TO TERMS OF THIS AGREEMENT**

C. Gregory Fifer of the firm Applegate Fifer Pulliam LLC, an Indiana limited liability company (hereinafter referred to as the “Attorney”), hereby acknowledges his willingness to perform the services required by this Agreement in accordance with its terms.

So acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

---

C. Gregory Fifer, Attorney No. 8121-98  
**APPLEGATE FIFER PULLIAM LLC**  
428 Meigs Avenue  
Jeffersonville, IN 47130  
T: (812) 284-9499  
E: gfifer@afpfirm.com

PARCEL ACQUIRED  
LOCATION REPORT  
FLOYD CO. BRIDGE NO. 51 REPLACEMENT  
Des. No. 1700788

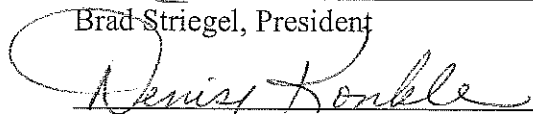
PARCEL	OWNER	PROPERTY ADDRESS	ACQUIRED IN
1	Future Freedom, Inc.	3108 Blackiston Mill Rd.	City of New Albany
2	Koerber's Properties, LLC	3095 Blackiston Mill Rd.	City of New Albany
3	Silverwood Court, LLC	-	City of New Albany
4	Albanessa Venture, LLC	3700 Blackiston Blvd.	City of New Albany
5	Graf Properties, LLC (includes U.R.)	-	Floyd County
6	Silver Creek Water Corp. (includes U.R.)	2999 Blackiston Mill Rd.	Floyd County
7	Larry and Nancy Beeler (in Floyd Co.) (includes U.R.)	-	Floyd County
8	William and Juanita Ridener (in Floyd Co.)	1100 Silverwood Court	Floyd County
9	Larry and Nancy Beeler (in Clark Co.) (includes U.R.)	-	Clark County
10	William and Juanita Ridener (in Clark Co.)	1100 Silverwood Court	Clark County
11	Graf Properties, LLC (includes U.R.)	-	Clark County
12	Unknown Owner	-	Clark County
13	Larry and Nancy Beeler	2832 Blackiston Mill Rd.	Clark County
14	Disponett & Disponett Property, LLP	109 Walnut Grove Dr.	Town of Clarksville
15	Onsite Heating & Air, LLC	3011 Blackiston Mill Rd.	Town of Clarksville
16	James R. Disponett, II	3009 Blackiston Mill Rd.	Town of Clarksville
17	Sherman R. and Alice G. Nixe	3005 Blackiston Mill Rd.	Town of Clarksville
18	Larry W. Beeler	2820 Blackiston Mill Rd.	Clark County
19	Ramiro Gandara, Sr.	2929 Blackiston Mill Rd.	Town of Clarksville
20	Myong Kang	2917 Blackiston Mill Rd.	Town of Clarksville
21	River Heritage Conservancy, LLC	3200 Blackiston Mill Rd.	Town of Clarksville
22	TCB Properties, LLC	3205 Blackiston Mill Rd.	Town of Clarksville
23	Unknown Owner (Walnut Grove Drive -Unrecorded R/W)	-	Town of Clarksville
24	Unknown Owner (Starlight Drive - Unrecorded R/W)	-	Town of Clarksville
	U.R. - Uneconomic Remnant		

READ AND APPROVED BY THE FLOYD COUNTY COUNCIL THIS 13 DAY  
OF July, 2021.

COUNTY COUNCIL OF  
FLOYD COUNTY, INDIANA



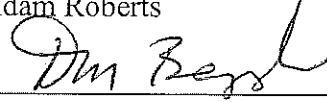
Brad Striegel, President



Denise Konkle, Vice President



Adam Roberts



Dale Bagshaw



Danny Short

Tom Pickett



Connie Moon

ATTEST: *Suzanne Kenning*