

Resolution 2021-20

**A RESOLUTION OF PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA
TO RETURN FUNDS IN THE AMOUNT OF \$48,000.00 TO THE BOARD OF COMMISSIONERS OF
THE COUNTY OF ST. JOSEPH, INDIANA, RECEIVED THROUGH THE INTERLOCAL AGREEMENT
WITH ST. JOSEPH COUNTY BOARD OF COMMISSIONERS FOR THE CONSTRUCTION OF AN
ENTRANCE ROADWAY FOR THE PENN TOWNSHIP FIRE STATION NO. 13 PROJECT – CANDACE
LANE**

WHEREAS, the Board of Penn Civil Township, St. Joseph County, Indiana met at a duly called and authorized meeting of the Board of Penn Township on the date set forth below, such meeting having been called pursuant to a published notice posted at the Penn Township Trustee's Office more than forty-eight (48) hours in advance of the meeting and which notice stated the time, place and purpose of the meeting and which was received by all Penn Township Board Members; and

WHEREAS, the following resolution was made, seconded and adopted by those present at the meeting; and

WHEREAS, in its **Resolution R-C-20-2021**, the St. Joseph County Board of Commissioners (the "Commissioners") desire to assist with the Project as the new entrance roadway for the Fire Station is being required by the County as an access point for Penn Fire Station No. 13; and

WHEREAS, the Commissioners would provide funding to pay for asphalt paving, earthwork, site utilities and sign relocation, inspections and other associated costs, and in fact paid Penn Township \$500,000.00 under **Resolution R-C-20-2021**; and

WHEREAS, Penn Township has determined that it cannot enter into an agreement to relocate the billboard located on the property where Penn Fire Station No. 13 is located as previously anticipated despite having already received \$48,000.00 for relocation purposes included in the \$500,000.00 payment from the Commissioners, and

WHEREAS, Penn Township in its **Resolution 2021-18** has resolved to accept funds from the Commissioners in the amount of \$452,000.00; and

WHEREAS, under this **Resolution 2021-20** Penn Township desires to return funds in the amount of \$48,000.00 to the Commissioners due to its inability to relocate the billboard located on the property where Penn Fire Station No. 13 is located;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Penn Township approves the return of \$48,000.00 to the St. Joseph County Board of Commissioners previously received under the Interlocal Agreement Related to the Construction of an Entrance Roadway for the Penn Township Fire Station No. 13 Project attached hereto as Exhibit "A" and further authorizes the


Penn Township Trustee to pay the St. Joseph County Board of Commissioners \$48,000.00 for reimbursement of funds already paid to Penn Township which were earmarked for the relocation of the billboard located on the property where Penn Fire Station No. 13 is located.

ADOPTED this 13th day of December, 2021 at the hour of 5:30pm.

PENN TOWNSHIP, ST. JOSEPH COUNTY



Kent Hizer, Board President



Lacy Hahn, Board Secretary



David Schmidt, Board Member


Attest:

Doris J. Portolese, Trustee

Exhibit A: Interlocal Agreement Related to the Construction of an Entrance Roadway for the Penn Township Fire Station No. 13 Project

**INTERLOCAL AGREEMENT RELATED TO THE CONSTRUCTION OF AN
ENTRANCE ROADWAY FOR THE PENN TOWNSHIP FIRE STATION NO. 13
PROJECT**

This Agreement is made and entered into this 15 day of June, by and between **PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA** (hereinafter referred to as the "Township") and the **BOARD OF COMMISSIONERS OF THE COUNTY OF ST. JOSEPH, INDIANA** (hereinafter referred to as the "County")

RECITALS

WHEREAS, the County has been in discussions with the Township to assist with costs related to the construction of a new entrance roadway for the new Penn Township Fire Station No.13 (the "Fire Station") and associated site prep work (the "Project") that the Township is building; and

WHEREAS, the Commission desires to assist with the Project as the new entrance roadway for the Fire Station is being required by the County as an access point for the Fire Station; and

WHEREAS, the Commission would provide funding to pay for various improvements as outlined herein below: and

WHEREAS, the Township and the County enter into this Agreement to identify the duties and responsibilities of each party regarding the Project.

NOW, THEREFORE, in consideration of the following terms, conditions, and commitments, the parties agree as follows:

1. **Purpose of Agreement:** The purpose of this Agreement is to outline the obligations and responsibilities of each of the parties regarding the Project.
2. **The Project:** The Project involves the construction of a new entrance roadway to be used for an access point for the Penn Township First Station No. 13 currently being built by the Township.
3. **Responsibility of the County:** The County shall be responsible for providing funding for certain improvements related to the Project including but not limited to asphalt paving, earthwork, site utilities, utilities and ~~high retention~~, inspections, and other associated costs (the "Improvements"). The County's monetary contribution to the Project shall not exceed \$500,000.00 (the "County Payment"). The parties recognize and agree that the Project cost exceeds the County Payment and the Township agrees to pay and be responsible for any and all other costs associated with the Project.
4. **Construction of the Entrance Roadway:** The Township shall be responsible for all aspects of the design, construction, and maintenance of the Project. The parties recognize and

agree that the only contribution by the County regarding the Project is the County Payment as outlined in Paragraph 3.

5. **Term:** This Agreement shall be effective upon signing and shall continue until the completion of the Project or until such time as either party provides at least sixty (60) days written notice of termination of this Agreement.

6. **Limitations of Liability:** The Township agrees to defend, indemnify, and hold harmless the County and its agents, officers, and employees from all claims and suits of any nature whatsoever arising from the Township's performance of this Agreement, the Project, and the construction of the Entrance Roadway, including any and all judgments therefore, and for all expenses in defending or appealing any such claims or judgments, including without limitation court costs, attorney's fees, and other expenses.

7. **Supplemental Documents:** The Township and County agree to execute any and all additional documents and take any and all reasonable and necessary steps to accomplish the purpose and provisions of this Agreement.

8. **Non-Discrimination:** Pursuant to Indiana Code 22-9-1-10, neither the Township nor the County, nor any of their contractors or subcontractors, shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry, or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

9. **Miscellaneous:**

- a. **Entire Agreement and Amendment.** This Agreement constitutes the entire Agreement between the parties and may only be amended by the mutual written consent of the parties.
- b. **No Other Agreement.** Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.
- c. **Severability.** If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement, and to the end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.
- d. **Indiana Law and Venue.** This Agreement shall be governed by and construed in accordance with laws of the State of Indiana. Any dispute

relating to or arising out of this Agreement shall be brought and maintained exclusively in the Circuit or Superior Courts located in St. Joseph County, Indiana. The parties hereto expressly consent to the sole and exclusive jurisdiction and venue of these courts.

- e. Notice. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

Township: Penn Township, St. Joseph County, Indiana
210 East Russ Avenue
Mishawaka, Indiana 46544

With copies to:

HALPIN SLAGH
521 WEST COLFAX AVENUE
SOUTH BEND, IN 46601
ATTN: ANDREA HALPIN

County: St. Joseph County Board of Commissioners
227 W. Jefferson Blvd.
County-Township Building Room 722
South Bend, Indiana 46601

With copies to:

Jamie Woods, County Attorney
420 Lincolnway West
Mishawaka, Indiana 46544

The parties may change their respective mailing addresses by providing written notice of the new address in accordance with the terms and provisions of this paragraph.

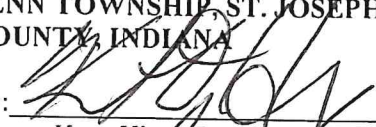
- f. Binding Effect: This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, understandings, and agreements among them relative to the subject matter of this Agreement and cannot be altered, amended, or terminated without the written agreement of the Parties. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns; provided,


however, no assignment of this Agreement shall be permitted without the express written consent of the Parties.

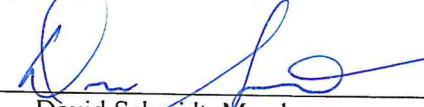
- g. Counterparts: This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

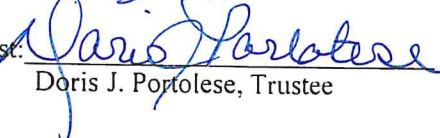
IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorization as of the date first above written.

**PENN TOWNSHIP, ST. JOSEPH
COUNTY, INDIANA**


By: 
Kent Hizer, President

By: 
Lacy Han, Secretary

By: 
David Schmidt, Member

Attest: 
Doris J. Portolese, Trustee

**ST. JOSEPH COUNTY, INDIANA
BOARD OF COMMISSIONERS**

By: 
Andrew T. Kostielney, President

By: 
Deborah A. Fleming, DMD, Vice President

By: 
Derek D. Dieter, Member

ACKNOWLEDGMENT

STATE OF INDIANA

COUNTY OF ST. JOSEPH

Before me, the undersigned Notary Public in and for said Township personally appeared Kent Hizer, President; Lacy Han, Secretary; and David Schmidt, Member, of Penn Township, St. Joseph County, Indiana, and acknowledged the execution of the foregoing agreement on this 14th day of December, 2021.

Witness my hand and seal the said last named date.

My Commission Expires:

8-27-2025

Phyllis L. McVortin

Notary Public

County of Residence:

St Joseph

ACKNOWLEDGMENT

STATE OF INDIANA

COUNTY OF ST. JOSEPH

Before me, the undersigned Notary Public in and for said County personally appeared Andrew T. Kostielney, President; Deborah A. Fleming, DMD, Vice President; and Derek Dieter, Member, of the Board of Commissioners of St. Joseph County, Indiana, and acknowledged the execution of the foregoing agreement on this 15th day of April, 2021.

Witness my hand and seal the said last named date.

My Commission Expires:

5-21-23

[Signature]

Notary Public

County of Residence: St. Joseph



RESOLUTION R-C-20-2021

**A RESOLUTION OF THE ST. JOSEPH COUNTY BOARD OF COMMISSIONERS
AUTHORIZING INTERLOCAL AGREEMENT FOR THE CONSTRUCTION OF AN
ENTRANCE ROADWAY FOR THE PENN TOWNSHIP FIRE STATION NO. 13
PROJECT**

WHEREAS, the St. Joseph County Board of Commissioners (the "Commissioners") and Penn Township, St. Joseph County, Indiana ("Penn Township") have had discussions regarding the Commissioners assisting with costs related to the construction of a new entrance roadway for the Penn Township Fire Station No.13 (the "Fire Station") and associated site prep work (the "Project"); and

WHEREAS, the Commissioners desire to assist with the Project as the new entrance roadway for the Fire Station is being required by the County as an access point for the Fire Station; and

WHEREAS, the Commission would provide funding to pay for asphalt paving, earthwork, site utilities, utilities and ~~sign relocation~~, inspections, and other associated costs (the "Improvements"); and

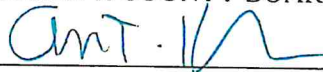
WHEREAS, the Commissioners and Penn Township have negotiated an Interlocal Agreement (the "Agreement") regarding the Project; and

WHEREAS, the Commissioners and Penn Township wish to enter into the Agreement.

NOW THEREFORE BE IT RESOLVED, that the St. Joseph County Board of Commissioners hereby approves the Agreement.

ADOPTED THE 15th DAY OF JUNE 2021

THE ST. JOSEPH COUNTY BOARD OF COMMISSIONERS



Andrew T. Kostielney, President



Deborah A. Fleming, D.M.D., Vice-President



Derek Dieter, Member

ATTEST: 

Michael J. Hamann
St. Joseph County Auditor