



CARLOW

COUNTY COUNCIL

23rd July 2019
COMHARLE CHONTAE CHEATHARLACH

County Buildings, Athy Road,
Carlow, R93E7R7
Oifigí an Chontae, Bóthar Átha I,
Ceatharlach, R93E7R7

Tel: 059 9170300
Fax: 059 9141503
Email: secretar@carlowcoco.ie
Web: www.carlow.ie

Mr. Tim Butler,
Director of Services,
Kilkenny County Council,
John Street,
Kilkenny.

**RE: Section 85 Agreement between Kilkenny County Council and
Carlow County Council for Graiguenamanagh and
Tinnahinch Flood Relief Scheme.**

Dear Tim,

I refer to the above and enclose herewith

- Section 85 Resolution by Carlow County Council
- Section 85 Agreement signed & sealed by Carlow County Council

Can you arrange for both of the attached Section 85 Agreements to be stamped with the County Seal and signed appropriately, retaining one copy for your records and returning the other for my attention to Carlow County Council, County Offices, Athy Road, Carlow.

Yours sincerely

7p

**Ray Wickham,
A/Senior Engineer,
Transportation,
Carlow County Council.**



DIRECT LINES: CODE 059

Carlow MD Area Engineer 9136272
Planning 9170346
Human Resources 9170314
Muinebhag MD Area Engineer 9172415
Local Enterprise Office 9129783
Register of Electors 9170313
Roads / Transportation 9170379

Information Technology 9136215
Housing 9136296
Waste & Environment 9136231
Rates 9172489
County Library 9129705
Community 9136204
Loan Payments 9172491

Fire Service & Building Control 9131144
County Museum 9131554
Rent Payments 9172497
Recreation & Amenity 9170377
Arts 9136203
Motor Taxation 9170342



CARLOW
COUNTY COUNCIL
COMHAIRLE CHONTAE CHEATHARLACH

County Buildings, Athy Road,
Carlow, R93E7R7
Oifigi an Chontae, Bóthar Átha Í,
Ceatharlach, R93E7R7

Tel: 059 9170300
Fax: 059 9141503
Email: secretar@carlowcoco.ie
Web: www.carlow.ie

9th July 2019

Section 85 Agreement Kilkenny County Council and Carlow County Council

Extract from July Monthly Meeting of Carlow County Council held in the Council Chamber, County Offices, Athy Road, Carlow, on Monday 8th July, 2019 at 2.00 p.m.

Proposed by Councillor T. Kinsella

Seconded by Councillor W. Quinn

Following a show of hands it was unanimously resolved:-

"That we, the Members of Carlow County Council, hereby approve that Carlow County Council enter a Section 85 Agreement with Kilkenny County Council to facilitate the design and construction of a Flood Relief Scheme for Graiguenamanagh/Tinnahinch, in accordance with the provisions of Section 85 of the Local Government Act 2001.

CERTIFIED TO BE A TRUE COPY OF RESOLUTION PASSED AT COUNCIL MEETING HELD ON THE 8th July, 2019.

Signed:

Eamonn Brophy
Meetings Administrator

Tel:

059 9170345

Email:

ebrophy@carlowcoco.ie

Date:

10/July/2019

DIRECT LINES: CODE 059

Carlow MD Area Engineer 9136272
Planning 9170346
Human Resources 9170314
Muinebheag MD Area Engineer 9172415
Local Enterprise Office 9129783
Register of Electors 9170313
Roads / Transportation 9170379

Information Technology 9136215
Housing 9136296
Waste & Environment 9136231
Rates 9172489
County Library 9129705
Community 9136204
Loan Payments 9172491

Fire Service & Building Control 9131144
County Museum 9131554
Rent Payments 9172497
Recreation & Amenity 9170377
Arts 9136203
Motor Taxation 9170342

through the waters of time



C A R L O W
C O U N T Y C O U N C I L
COMHAIRLE CHIONTAI CHATHARLOCHIA



AGREEMENT

between

KILKENNY COUNTY COUNCIL

and

CARLOW COUNTY COUNCIL

**IN ACCORDANCE WITH THE PROVISIONS OF
SECTION 85 OF THE LOCAL GOVERNMENT ACT 2001**

for the

**GRAIGUENAMANAGH and TINNAHINCH
FLOOD RELIEF SCHEME**



AGREEMENT made this 16th day of July 2019,

BETWEEN THE COUNTY COUNCIL OF THE COUNTY OF KILKENNY (hereinafter called Kilkenny County Council) having its principal offices at County Hall, John Street, Kilkenny in the County of Kilkenny of the One Part.

AND THE COUNTY COUNCIL OF THE COUNTY OF CARLOW (hereinafter called Carlow County Council) having its principal offices at Athy Road, Carlow in the County of Carlow of the Other Part.

WHEREAS:

- (A) Kilkenny County Council is desirous to carry out flood relief works in Graiguenamanagh/Tinnahinch as described in the Schedule hereto and is hereinafter called the "The Project" in accordance with the provisions of the Planning And Development Acts 2000-2018, the Local Government Acts 2001-2016, Arterial Drainage Act, 1945 and Amendment Act, 1995, Road Act 1993 - 2015 and all other Acts thereby Enabling:
- (B) The Office of Public Works has approved and funded the project to be undertaken by Kilkenny County Council and Kilkenny County Council would be best placed to implement and consent and/or approval for the project and to administer the contract.
- (C) Carlow County Council being of the opinion that, in relation to the design, construction and completion of the project, it would be more convenient if all statutory powers, functions and duties which may be exercised and performed by it to this extent were exercised and performed by Kilkenny County Council on behalf of Carlow County Council being able and willing to exercise and perform the functions, powers and duties.
- (D) The Project shall be carried out under Kilkenny County Councils powers and ongoing maintenance of the completed works will be the responsibility of both Carlow County Council and Kilkenny County Council with funding provided by the Office of Public Works subject to an agreed programme.
- (E) The parties hereto have agreed by resolution of each said Council and in accordance with the provisions of Section 85 of the Local Government Act 2001 (as amended) to enter into this agreement, as provided for by resolution.



NOW THEREFORE IT IS HERBY AGREED by and between the parties hereto as follows:

1. Kilkenny County Council shall obtain all necessary statutory consent/approval and/or authorization for the proposed works to which this Agreement relates.
2. Subject to and in accordance with any necessary statutory consent/approval and/or authorization as is required, Carlow County Council hereby agrees to Kilkenny County Council exercising and performing on its behalf the functions, powers and duties of Carlow County Council, which are now, or may hereafter be vested in Kilkenny County Council, to the extent necessary to enable Kilkenny County Council to carry out the design, construction and completion of the project.
3. Kilkenny County Council shall design, construct and complete the project, in consultation with the OPW and shall incur such costs or expenses (hereafter collectively referred to as "the cost") as it may decide is necessary for the cost of designing, construction and completing the project and as may be ancillary and consequential hereto.
4. Kilkenny County Council shall be responsible for and shall apply to the appropriate Authority for an allocation of the funds necessary to cover the cost.
5. The actual cost of the design, construction and completion of the project shall include the costs and expensed necessary, consequential and ancillary thereto which shall be ascertained and certified by the Director of Services, Directorate of Transportation or other person as may be appointed be the Chief Executive Officer of Kilkenny County Council.
6. Carlow County Council shall consult with and shall provide Kilkenny County Council and its officers with all information currently available to it which Kilkenny County Council may require from time to time in relation to the design, construction and completion of the Project.
7. Kilkenny County Council shall consult with and shall provide Carlow County Council and its officers with all information currently available to it which Carlow County Council may require from time to time in relation to the design, construction and completion of the Project.
8. Carlow County Council shall co-operate fully with Kilkenny County Council in all respects and where and when necessary in relation to the exercise and



performance by Kilkenny County Council of the Statutory powers, functions and duties to the extent undertaken by it under this agreement.

9. In the event of a dispute arising between the parties hereto as to the effect or interpretation of this agreement or as to the respective rights or liabilities of the parties hereto same shall be referred to and decided by Conciliators or by such other person as the said Authority may appoint and in that respect the decision of the said Authority or the person so appointed shall be final and binding on the parties hereto.

IN WITNESS whereof Kilkenny County Council and Carlow County have caused their respective Seals to be affixed hereto on the day and year first hereinbefore

WRITTEN

PRESENT where the Corporate Seal of **COUNTY COUNCIL OF THE COUNTY OF KILKENNY** was affixed hereto:

(Nominated Member)

(Chief Executive)

(County Secretary)

PRESENT where the Corporate Seal of **COUNTY COUNCIL OF THE COUNTY OF CARLOW** was affixed hereto:

(Nominated Member)

(Chief Executive)

(County Secretary)



SCHEDULE HEREINBEFORE REFERRED TO

The identification, design and submission (for planning consent) of a Flood Relief Scheme, that is technically, socially, environmentally and economically acceptable, to alleviate the risk of flooding to the Community of **Graiguenamanagh/Tinnahinch** to a determined Standard of Protection, and to procure, manage and oversee the construction of that Scheme.

