



**Comhairle Cathrach
& Contae Luimnigh**

**Limerick City
& County Council**

Seirbhísí Pleanála agus Comhshaoil,
Comhairle Cathrach agus Contae Luimnigh,
Tuar an Dail, Luimneach

Planning and Environmental Services,
Limerick City and County Council,
Dooradoyle, Limerick

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17th July 2018

To: The Mayor and Each Member of Limerick City and County Council

Re: O'Briensbridge/ Montpelier Rehabilitation Works Section 85 Agreement with Clare County Council

A Chomhairleoir, a chara,

Clare County Council is proposing works at the O'Brien's Bridge/Montpelier bridge crossing of the River Shannon. The need for this work is due to the limited turning space on the Clare side of the bridge that causes large vehicles to strike the stone parapet of the bridge frequently. The result is that large pieces of stone are being knocked off onto the pedestrian walkway under the bridge and this lead to its permanent closure in 2014. The proposed safety works will aim to protect the bridge from any further structural damage while also enabling the pedestrian walkway to be reopened to the public.

O'Brien's Bridge is a Protected Structure (RPS No. 215) located in the village O'Briensbridge and carries Regional Road R466 across the River Shannon into Montpelier, Co. Limerick. The trailhead for the Loop Walks is located in the Riverside Park. The walkway under the bridge is closed off at present on safety grounds and the proposed development will allow it to be reopened. The proposed development shall include the following works:

- Construction of structures on the riverside walk upstream and downstream of O'Brien's Bridge to provide protection from falling masonry from the parapet walls above. The bridge had been struck by vehicles and dislodged masonry had fallen onto the walkway below. The structures will provide canopies over the walkway for a short distance.
- Repairs to the surface of the riverside walk in the vicinity of the proposed structures.

- Provision of traffic signals which will limit traffic to one direction at a time over the bridge.
- Provision of a traffic detection system consisting of ducting, chambers and loops on the road surface approaching the bridge.
- Provision of all necessary signs and road markings

On the Limerick side there will be some new signage and a set of traffic lights at the entrance to the bridge.

Limerick City and County Council has been requested by Clare County Council to allow them to act as the lead authority to carry out the required management responsibilities for the Scheme. This will entail managing the relevant statutory procedures, procuring the necessary design, and carrying out of the construction works for the Scheme in the functional areas of both Limerick City and County and Clare County Councils.

Clare Co. Co. drafted a Section 85 Agreement to manage the entire project including the works in Co. Limerick. The scale of the works on the Limerick side is not sufficient to warrant a Part 8 procedure.

In this regard, it will be necessary for Limerick City and County Council to enter into an agreement with Clare County Council in accordance with Section 85 of the Local Government Act, 2001. The purpose of the agreement is to give Clare County Council all the powers, duties and functions of Limerick City and County Council in relation to the O'Briensbridge/ Montpelier Rehabilitation Works.

I attach herewith copy of Section 85 Agreement and in accordance with Section 85 of the Local Government Act 2001, I recommended that the Council adopt the following resolution;

That Limerick City and County Council, agrees to the making of an Agreement, as presented to them, under Section 85 of the Local Government Act, 2001 and Section 14 of the Roads Act, 1993, with Clare County Council for the carrying out by Clare County Council of the relevant statutory procedures and carrying out of the construction works and any other powers, functions and duties necessary for the O'Briensbridge/ Montpelier Rehabilitation Works

The making of an agreement by a local authority under Section 85 of the Local Government Act 2001 is a reserved function.'

I wish to advise that both the Part VIII & the S.85 for the proposed works at O' Briensbridge were agreed at the July meeting of Clare Co Council held on 9th July last. I attach herewith resolution in respect of the S.85 for your consideration.

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Kieran Lehane

Director of Service

AN AGREEMENT made the day of 2018

BETWEEN CLARE COUNTY COUNCIL having its principal offices at the New Road, Ennis in the County of Clare (hereinafter called “Clare County Council”) of the One Part and **LIMERICK CITY AND COUNTY COUNCIL** having its principal offices at Merchant’s Quay, Limerick (hereinafter called “Limerick City and County Council”) of the Other Part (collectively hereinafter called the “Councils”)

WHEREAS:-

1. Clare County Council is desirous of carrying out the relevant statutory procedures and procuring the necessary construction work in respect of O’Briensbridge Rehabilitation Works (the “Road Scheme”).
2. Separate parts of the lands on which the Road Scheme is to be developed lie within the functional areas of Clare County Council and Limerick City and County Council. The proposed work in the functional area of Limerick City and County Council would consist of the installation of traffic signals and advance warning signage in Montpelier, Co. Limerick for the purpose of increasing safety at O’Briensbridge.
3. The Councils are the Road Authorities (as defined by the Roads Act 1993) in their respective functional areas.
4. Limerick City and County Council is of the opinion and agrees that it would be more convenient that
 - (a) the carrying out of the relevant statutory procedures and the discharging of powers, functions and duties in relation to procuring the necessary design and construction work of that part of the Road Scheme located in the functional area of Limerick City and County Council

which may be exercised or performed by Limerick City and County Council should be exercised or performed by Clare County Council and Clare County Council are able and willing so to exercise or perform the said powers, functions and duties in accordance with Section 85 of the Local Government Act 2001 and Section 14 of the Roads Act 1993 as amended in the manner hereinafter set forth.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-

- 1 The parties hereto have agreed to enter into this agreement under the provisions of Section 85 of the Local Government Act 2001 and Section 14 of the Roads Act 1993 as amended.
2. Limerick City and County Council is of the opinion and hereby agrees that it would be more convenient that the powers, functions and duties relating to the carrying out of the relevant statutory procedures and procuring the necessary design and construction work in connection with the Road Scheme within the functional area of Limerick City and County Council should be exercised or performed by Clare County Council and Clare County Council are able and willing so to exercise or perform the said powers, functions and duties.
3. Clare County Council shall have and exercise all the powers, duties and functions of Limerick City and County Council in relation to that part of the Road Scheme located in the functional area of the Limerick City and County Council in accordance with this Agreement.
4. Clare County Council shall serve such notices, complete such contracts and agreements, pursue such negotiations and, generally do and perform all such matters as are necessary for the procurement of the Road Scheme.
5. Clare County Council shall bear the entire cost of the carrying out of the relevant statutory procedures and the procuring of the necessary design and construction work for the Road Scheme.

6. Subject to the relevant statutory procedures and the design and construction work for the Road Scheme being completed, Limerick City and County Council shall accept same and thereafter shall act as the Roads Authority in respect of such portions of the Road Scheme which lie within the functional area of Limerick City and County Council.

In respect of such portions of the road scheme which lie within the functional area of Limerick City and County Council following completion of the road scheme that Clare County Council is indemnified in respect of any claim or accident arising on or in relation to such portions of the road scheme which lie within the functional area of Limerick City & County Council.

7. In the event of any dispute arising between the parties hereto as to the effect or interpretation of these presents or their respective rights or liabilities hereunder the same shall be referred to the arbitration of an arbitrator agreed between the parties and in default of agreement appointed by the Minister for Housing, Planning and Local Government and the arbitrator so agreed or appointed shall have all the powers of an arbitrator under the Arbitrations Acts 1954 to 1998 as amended or extended and his decision shall be final and binding on the parties hereto.

IN WITNESS WHEREOF the parties hereto have hereunto set their seals the day and year first herein written.

PRESENT when the Seal of
CLARE COUNTY COUNCIL
was affixed hereto:-

Chief Executive

Authorised Officer

Mayor/Nominated Member

PRESENT when the Seal of
LIMERICK CITY AND COUNTY COUNCIL
was affixed hereto:-

Chief Executive

Authorised Officer

Mayor/Nominated Member

