

**INTERAGENCY GOVERNMENTAL
AGREEMENT FOR
COLLECTION AND WAIVER OF IMPACT
FEES**

THIS INTERAGENCY GOVERNMENTAL AGREEMENT FOR COLLECTION AND WAIVER OF IMPACT FEES ("Agreement") is made and entered into this ____ day of June 2024, by and between the Ada County Highway District, a body politic and corporate of the State of Idaho (hereinafter referred to as "ACHD") and the city of Star, an Idaho municipal corporation (hereinafter referred to as "City"), hereinafter collectively referred to as "Parties").

RECITALS

- A. ACHD is a single county-wide highway district, a public entity, organized and existing pursuant to Idaho Code Title 40, Chapter 14, as amended and supplemented, with the exclusive jurisdiction, and authority to maintain, improve, regulate, and operate public rights-of-way in Ada County.
- B. City is a public entity organized and operating pursuant to Idaho Code Title 50, as amended and supplemented. City is a municipal corporation with jurisdiction, authority and police power to regulate and control municipal activities within the City.
- C. Idaho Code § 67-2332 provides that one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, provided that such contract is authorized by the governing body of each party and that such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.
- D. ACHD and City are both "taxing districts," as defined by Idaho Code 63-201.
- E. Pursuant to Idaho Code § 67-8203(7) of the Idaho Development Impact Fee Act, a taxing district must pay an impact fee for a development that is for an activity within the taxing district's public responsibility if ACHD's impact fee ordinance expressly includes taxing districts as being subject to paying development impact fees.
- F. ACHD's Impact Fee Ordinance No. 246A, as amended from time to time (the "Ordinance") Section 7304.2 expressly states that taxing districts are obligated to pay development impact fees, unless ACHD and the taxing district enter into a written agreement that provides otherwise.

- G. The Parties have determined that it is against public policy for two taxing districts comprised of some or all of the same taxpayers to tax one another. The Parties have further determined it to be in the public's best interest to define certain areas of responsibility and provide for the cooperation with respect to the exercise thereof in accordance with Idaho Code § 67-8204A for the benefit of the citizens of the City and within the jurisdiction of ACHD.
- H. In consideration of the above, the purpose of this Agreement is to set forth in writing the Parties' Agreement that defines certain areas of responsibility as to collection and waiver of impact fees during the term of this Agreement as further set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties do mutually undertake, promise, and agree as follows:

Section 1. Definitions.

1.1 The term "ACHD" shall refer to the Ada County Highway District, and shall include its Commissioners, employees, agents, and contractors when acting on behalf of ACHD.

1.2 The term "Applicant" shall refer to an owner, developer, builder, possessor or other holder of an interest in real property located within the area of City's jurisdiction.

1.3. Ther term "Application" shall refer to an application for a Permit from City by an Applicant.

1.4 The term "City" shall refer to the City of Star, state of Idaho, and shall include its Mayor, Members of its Council, employees, agents, and contractors when acting on behalf of City.

1.5 The term "Fiscal Year" shall mean the year ending September 30th.

1.6. The term "Development" shall mean the same as found in ACHD Policy 7300 and Idaho Code Title 67 Chapter 82.

1.7 The term "Impact Fee" shall refer to an Impact Fee imposed by ACHD under ACHD Ordinance Number 246A adopted by ACHD pursuant to provisions of the Idaho Development Impact Fee Act, Title 67, Chapter 82, Idaho Code, as such ordinance now exists or as the same may be modified and

amended from time to time in the future. 1.8 The term "Law" shall mean any statute of the state of Idaho and any City or ACHD ordinance, resolution, rule and any binding final decision of a court with jurisdiction over City and ACHD.

1.8 The term "Permit" shall refer to a conditional use permit, design review, review of a planned development, traffic and development plan, zone change, private road, building permit, or any other permit or approval which relates to or has an impact on the highways and public rights-of-way under the jurisdiction of ACHD and which is required by applicable Law to be issued by City but not similarly required by Law to be approved or issued by ACHD.

1.9 The term "Residential" shall mean single family dwellings, duplex dwellings, multifamily dwellings, manufactured homes and mobile homes.

SECTION 2

PURPOSES AND POWERS REGARDING COLLECTION OF IMPACT FEES ON BEHALF OF ACHD

2. In accordance with Idaho Code § 67-2332, the purposes, powers, rights, and objectives of each of the parties are as set forth in the Recitals above. Each of the Recitals above is incorporated into the body of this Agreement.

2.1. ACHD Review of Application; Inclusion of ACHD Requested Conditions in City's Staff Recommendations Each time an Applicant presents an Application to City for a Permit, before taking any final action with respect thereto, City agrees to forward a complete copy of the Application to ACHD for its review. Upon receipt of the copy of the Application, ACHD shall, within thirty (30) calendar days, determine what conditions related to its statutory jurisdiction it would like to have included in City's requirements for issuance of the Permit applied for, and so advise City, in writing. For consideration by City, ACHD shall provide City with written findings of fact and conclusions of law in support of each request for inclusion of a condition. City agrees that it will include the ACHD requested conditions in its staff recommendations to City's Council.

2.2. City Agent of ACHD for Collection of Impact Fee for Residential Development In order to minimize the inconvenience of travel to both Parties' offices by an Applicant seeking a Permit for development, City is hereby appointed agent for ACHD for the collection of the appropriate Impact Fee due ACHD for such development.

2.3. Implementation by City of ACHD's Conditions Included in Permit City agrees to implement enforcement of ACHD's conditions which have been included in a Permit issued by City by withholding the issuance of a Permit until

ACHD notifies City that all such ACHD conditions have been met and, unless the City has collected the same as allowed under Section 2.2, that the Impact Fee has been collected. City further agrees to withhold the issuance of a certificate of occupancy until ACHD notifies City all such included conditions have been met.

2.4. Amount and Payment for Services For City's services as agent for collection of ACHD Impact Fees under Section 2.2, ACHD agrees to pay a service fee of Twenty Dollars (\$20) for each Impact Fee collected by City on Residential development to a maximum amount not to exceed \$25,000 in a Fiscal Year.

2.5. Monthly Report Within ten (10) days following the end of each calendar month City agrees to: (i) compile a monthly report, utilizing the software program provided by ACHD, describing the Impact Fees that it collected for ACHD during the preceding month, and (ii) provide the report and its check made payable to ACHD for the Impact Fees it collected during that month to ACHD together with an invoice for the service fees then payable to City for its services as agent for collection. ACHD will remit to City the amount of such invoice within thirty (30) days following receipt.

SECTION 3. **NO PAYMENT OF FEES**

3. During the Term (defined below) of this Agreement, the Parties may Agree in certain circumstances to waive the impact fees, in accordance with the type of development. The Parties agree that in the circumstances when the Parties agree to waive the impact fees, the City shall agree to provide any needed right of way for ACHD's infrastructure improvements associated with the development.

SECTION 4. **EFFECTIVE DATE/TERM AND TERMINATION**

4.1. Effective Date. This Agreement shall become effective upon the date upon which both parties' governing boards have authorized it (the "Effective Date") pursuant to Idaho Code § 67-2332.

4.2. Term and Termination. The term of this Agreement shall be ten (10) years (the "Term") after the Effective Date unless it is terminated earlier as follows: Either party may terminate this Agreement upon sixty (60) days' written notice to the other, provided, however, that any Fees that would have been due and payable by the terminating party eighteen (18) months prior to the date of termination that were not owed due to the existence of this Agreement shall become immediately due and payable and paid on the date of termination of this Agreement. Subject to the foregoing, upon termination of this Agreement, neither party shall have further recourse hereunder except with respect to the payment of Fees as set forth in this Section 2.2

SECTION 5.
GENERAL PROVISIONS

5.1. Constitutional Debt Limitation. Nothing in this Agreement shall be construed to be an indebtedness or liability in violation of Article VIII, Section 3 of the Idaho Constitution.

5.2. Attorney Fees. In the event of any controversy, claim, suit, proceeding or action being filed or instituted between the parties to enforce the terms and conditions of this Agreement, or arising from the breach of any provision hereof, the prevailing party will be entitled to receive from the other Party all costs, damages, and expenses, including reasonable attorneys' fees including fees on appeal, incurred by the prevailing party. The prevailing party will be that party who was awarded judgment as a result of trial or arbitration.

5.3. Choice of Law. The validity, meaning, and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho.

5.4. Entire Agreement. This Agreement and the exhibits hereto constitute the full and entire understanding and agreement between the parties with regard to the transaction contemplated herein, and no party shall be liable or bound to the other in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein.

5.5. Binding Agreement. The promises, covenants, conditions, and agreements herein contained shall be binding on each of the parties hereto and on all parties and all persons claiming under them or any of them; and the rights and obligations hereof shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

5.6. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

5.7. Waiver, Acknowledgments and Modifications. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit such party's right to enforce any provision or exercise any right. No acknowledgments required hereunder, and no modification or waiver of any provision of this Agreement or consent to departure therefrom, shall be effective unless in writing and signed by ACHD and City.

5.8. Headings. The headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

5.9. Notices. All notices or other communications that are required to be given or may be given to the Parties pursuant to the terms of this Agreement shall be sufficient in all respects if given in writing and if delivered personally, by email, or by first class mail, postage prepaid, to the receiving Party at the addresses set forth below. Each Party may change the address at which it is to receive communications by written notice to the other Party in accordance with the terms of this Section as follows:

If to ACHD:

Ada County Highway District
Attn: Impact Fee Administrator
3775 N. Adams Street
Garden City, ID 83714

If to City:

City of Star

5.10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same.

5.11. Limitations on Liability. The parties hereto agree that nothing herein contained shall be construed to create a joint venture, partnership, or other similar relationship which might subject any party to liability for the debts and/or obligations of the others, except as otherwise expressly agreed in this Agreement.

5.12. Time is of the Essence. Time shall be of the essence for all events and obligations to be performed under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

SIGNATURE PAGE FOLLOWS:

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CITY OF STAR:

TREVOR CHADWICK, MAYOR

ATTEST: _____
JACOB M QUALLS, City Clerk/Treasurer

**ADA COUNTY HIGHWAY
DISTRICT:**

RYAN HEAD, DIRECTOR