



## **MONROE COUNTY BOARD OF COMMISSIONERS' AGENDA**

**SEPTEMBER 9, 2020**

**10:00 am**

**VIA ZOOM**

*You can choose to turn off your video feed, and in fact, doing so does help with people who are connecting via slow ISP connections. To do so, right click on your video feed and left click on, I believe, Start/Stop video.*

*In addition, if you want your audio feed to default to muted, press ALT+A and it will mute you, you can then push to talk using the space bar. You can also go to the link on the County website*

<https://www.co.monroe.in.us/egov/apps/document/center.egov?view=item;id=10017>

*And click on the link information*

<https://monroecounty-in.zoom.us/j/84353337265?pwd=MWZ4dU9qWGVIMUUwV3RoeDFldG5GUT09>

Meeting ID: 843 5333 7265

Password: 162537

Dial by your location +1 312 626 6799 US (Chicago)

- I. CALL TO ORDER BY COMMISSIONER THOMAS**
- II. COMMISSIONERS' PUBLIC STATEMENT READ BY COMMISSIONER GITHENS**
- III. DEPARTMENT UPDATES**
- IV. PUBLIC COMMENT – FOR ITEMS NOT ON THE AGENDA, LIMITED TO 3 MINUTES**
- V. APPROVAL OF MINUTES**
  - **SEPTEMBER 2, 2020**
- VI. APPROVAL OF CLAIMS DOCKET**
  - **ACCOUNTS PAYABLE – SEPTEMBER 9, 2020**
  - **PAYROLL – SEPTEMBER 11, 2020**

**4**

**VII. NEW BUSINESS**

- A. MOVE TO APPROVE: MATHEU ARCHITECTS AGREEMENT FOR RECORDERS OFFICE** **10**  
**FUND NAME: PERPETUATION FUND NUMBER: 1189 AMOUNT: \$9,000**  
Executive Summary: This agreement will allow Matheu Architects to re-purpose and re-design the front customer counter and work area in the Records Office.  
**Eric Schmitz, Recorder**
- B. MOVE TO APPROVE: NATIONAL CINEMEDIA AGREEMENT FOR YSB SAFE PLACE.** **17**  
**FUND NAME: RUNAWAY HOMELESS YOUTH FUND NUMBER: 8120**  
**AMOUNT: \$1,440**  
Executive Summary: The Safe Place program has worked with National Cinemedia for over 3 years in providing this outreach. This campaign projects 26,215 impressions. The full cost of this is provided in the Runaway and Homeless Youth Grant.  
**Brigitt Nasby, YSB**
- C. MOVE TO APPROVE: ASI AGREEMENT REGARDING HIGHWAY AND EMERGENCY** **29**  
**MANAGEMENT.**  
**FUND NAME: COUNTY GENERAL FUND NUMBER: 1000**  
**AMOUNT: \$400/BIWEEKLY**  
Executive Summary: This agreement will allow ASI to perform cleaning services in the administrative portion of the Highway Garage and the Emergency Management/Weights and Measures space.  
**Jeff Cockerill, Legal**
- D. MOVE TO APPROVE: INDOT CHANGE ORDER(S) #21 & #22 FOR FULLERTON PIKE PH I.** **32**  
**FUND NAME: LOCAL ROAD AND STREET FUND NUMBER: 1169**  
**AMOUNT: \$6,553**  
Executive Summary: Change order #21- Inlet reconstruction due to field adjustments needed for pipe invert and pipe diameter. Cost \$2,651  
Change order #23- Installation of Type E inlet to allow the pipe alignment to go between a utility pole and an existing sanitary sewer trunk line. Cost \$3,902.  
**Lisa Ridge, Highway**

**E. MOVE TO APPROVE: INDOT AGREEMENT FOR BICENTENNIAL PATHWAY.**

**41**

**FUND NAME: CUMULATIVE CAPITAL**

**FUND NUMBER: 1138**

**AMOUNT: \$2,787,262**

Executive Summary: This agreement is to update the funding and date extension for the project. This project was originally created in 2009 and for the west side of the county to lead to Lake Lemon. However, the route was modified in 2016 due to the original terrain in the original alignment. The project has been modified, updated costs and being phased in. This is for Phase I which is Audobon Drive/BCL to just north of the Fire Station (fire station hill). The length of this phase is approximately 1.04 miles. The contract is updating Preliminary Engineering, Right-of-Way and Construction costs.

**Lisa Ridge, Highway**

**VIII. APPOINTMENTS**

**IX. ANNOUNCEMENT**

**X. ADJOURNMENT**



**MONROE COUNTY BOARD OF COMMISSIONERS'**  
**MINUTES SUMMARY\***  
**SEPTEMBER 2, 2020**  
**10:00 am**  
**VIA ZOOM**

<https://monroecounty-in.zoom.us/j/84353337265?pwd=MWZ4dU9qWGVIMUUwV3RoeDFldG5GUT09>

Meeting ID: 843 5333 7265

Password: 162537

Dial by your location +1 312 626 6799 US (Chicago)

- I. **CALL TO ORDER BY COMMISSIONER THOMAS**
- II. **COMMISSIONERS' PUBLIC STATEMENT READ BY COMMISSIONER THOMAS**
- III. **DEPARTMENT UPDATES**
  - Health – Penny Caudill
  - Emergency Management – Allison Moore
  - Highway – Lisa Ridge
  - Stride Center – Gregory May
- IV. **PUBLIC COMMENT – FOR ITEMS NOT ON THE AGENDA, LIMITED TO 3 MINUTES**
  - NONE
- V. **APPROVAL OF MINUTES**
  - **AUGUST 26, 2020**

Jones made motion to approve. Githens seconded.  
Attorney Jeff Cockerill called roll.  
Thomas – yes  
Jones – yes  
Githens – yes  
Motion carried 3-0.

**VI. APPROVAL OF CLAIMS DOCKET**

- **ACCOUNTS PAYABLE – SEPTEMBER 2, 2020**

Jones made motion to approve. Githens seconded.

Public comment – None.

Attorney Jeff Cockerill called roll.

Thomas – yes

Jones – yes

Githens – yes

Motion carried 3-0.

**VII. REPORTS**

- **CLERK OF THE CIRCUIT COURT – JULY 2020**
- **WEIGHTS AND MEASURES – JULY 16 – AUGUST 15, 2020**

**VIII. NEW BUSINESS**

**A. MOVE TO APPROVE: RATIFICATION OF MIDWEST ABSENTEE BALLOT AGREEMENT.**

**FUND NAME: ELECTION FUND**

**FUND NUMBER: 1215-010-30006**

**AMOUNT: \$2,000**

Jones made motion to approve. Githens seconded.

Thomas made motion to amend amount to \$4,000.

Public comment – None.

Attorney Jeff Cockerill called roll on motion.

Thomas – yes

Jones – yes

Githens – yes

Attorney Jeff Cockerill called roll on amended motion.

Thomas – yes

Jones – yes

Githens - yes

Motion carried 3-0.

**B. MOVE TO APPROVE: LETTER OF ENGAGEMENT WITH WAGGONER, IRWIN, SCHEELE, INC.**

**FUND NAME: COUNTY GENERAL**

**FUND NUMBER: 1000**

**AMOUNT: \$98,720**

Jones made motion to approve. Githens seconded.

Public comment – None.

Attorney Jeff Cockerill called roll.

Thomas – yes

Jones – yes

Githens – yes

Motion carried 3-0.

**C. MOVE TO APPROVE: EMPACT SOLUTIONS AGREEMENT REGARDING JUVENILE DETENTION ALTERNATIVES INITIATIVE.**

**FUND NAME: JDAI PROGRAMING      FUND NUMBER: 9145      AMOUNT: \$8,500**

Jones made motion to approve. Githens seconded.

Public comment – None.

Attorney Jeff Cockerill called roll.

Thomas – yes

Jones – yes

Githens – yes

Motion carried 3-0.

**D. MOVE TO APPROVE: ORDINANCE 2020-08; HOLLAND PINES REZONE.**

**FUND NAME: N/A      FUND NUMBER: N/A      AMOUNT: N/A**

Public Comment:

- Jerry Hays

**E. MOVE TO APPROVE: AMERICAN STRUCTUREPOINT, INC. AMENDMENT #6 FOR HUNTERS CREEK ROAD PROJECT, PH II & III.**

**FUND NAME: LOCAL ROAD AND STREET      FUND NUMBER: 1169**

**AMOUNT: \$34,900**

Jones made motion to approve. Githens seconded.

Public comment – None.

Attorney Jeff Cockerill called roll.

Thomas – yes

Jones – yes

Githens – yes

Motion carried 3-0.

**F. MOVE TO APPROVE: INDOT CHANGE ORDER # 6 AND #8 FOR FULLERTON PIKE, PH II**

**FUND NAME: LOCAL ROAD AND STREET      FUND NUMBER: 1169**

**AMOUNT: TOTAL \$11,134.80      80/20 match amount \$2,226.96**

Jones made motion to approve. Githens seconded.

Public comment – None.

Attorney Jeff Cockerill called roll.

Thomas – yes

Jones – yes

Githens – yes

Motion carried 3-0.

**IX. APPOINTMENTS**

- None



## X. ANNOUNCEMENTS

- **ELECTION DAY IS TUESDAY, NOVEMBER 3, 2020**

Last day to register to vote is Monday, Oct 5, 2020. To register or to check your voting status go to [www.indianavoters.com](http://www.indianavoters.com)

Early voting at Election Center located at 401 W 7<sup>th</sup> Street, Bloomington, IN 47404 on the following dates:

- October 6 – 9, 8am – 6 pm (Monday – Friday)
- October 12- 16, 8am – 6pm (Monday – Friday)
- October 19 – 23, 8am – 6pm (Monday – Friday)
- October 24, 9am – 4pm (Saturday)
- October 26 – 30, 8am – 6pm (Monday – Friday)
- October 31, 9am – 4pm (Saturday)
- November 2 – 8am – Noon (Monday)

- Monroe County Commissioners are sponsoring a **BLOOD DRIVE**, on the following dates:
  - **Tuesday, September 29**
  - **Thursday, October 22**
  - **Monday, November 9**
  - **Monday, December 21**

All appointment times will be **10 am to 3 pm** and held at the Monroe County Convention Center Conference Room, 302 S. College Ave. This is **BY APPOINTMENT ONLY**. Contact the Red Cross to schedule your appointment at 1.800.733.2767 or [www.redcross.org](http://www.redcross.org).

- Monroe County Government Buildings are open **BY APPOINTMENT ONLY**. You can contact the offices by phone or email. **FACE COVERINGS ARE REQUIRED** when entering MCG buildings. Face covering will be provided to you if you need them.
- Local businesses and organizations can pick up free “**No Shirt, No Shoes, No Mask, No Service**” window clings at the [Bloomington Chamber of Commerce, 421 W 6<sup>th</sup> Street, Downtown Bloomington, Inc., 302 S College Ave.](#) or by calling the Commissioner’s office at 812.250.2550. You can pick up your window cling on **Tuesday, Wednesday and Thursday’s from 9-4** at the North Doors of the Courthouse.
- Monroe County Health Department has a complaint form on the County’s website if you have a complaint or issue with a business or retail establishment concerning face coverings, social distancing or gathering sizes. There is also a hotline 812. 803-6360. **THIS IS NOT FOR COMPLAINTS ON INDIVIDUALS!**

- Monroe County Commissioners and Monroe County Council have created the Assistance Fund for county residents who need assistance in paying rent or utilities. Contact your local Township Trustee for further information.

TOWNSHIP TRUSTEE	Phone	email
Ben Blossom- Ronald Hutson	812.935.7174	<a href="mailto:beanblossomtrustee19@gmail.com">beanblossomtrustee19@gmail.com</a>
Benton - Michelle Bright	812.339.6593	<a href="mailto:michelleabright@gmail.com">michelleabright@gmail.com</a>
Bloomington - Kim Alexander	812.336.4976	<a href="mailto:bloomingtontownship@in.gov">bloomingtontownship@in.gov</a>
Clear Creek - Thelma Jefferies	812.824.7225	<a href="mailto:thelma@bluemarble.net">thelma@bluemarble.net</a>
Indian Creek - Chris Reynolds	812.824.4981	<a href="mailto:chreyonlds812@gmail.com">chreyonlds812@gmail.com</a>
Perry - Dan Combs	812.336.3713	<a href="mailto:trustee@perrytownship.info">trustee@perrytownship.info</a>
Polk - Chris Spiek	812.837.9446	<a href="mailto:cspiek@bluemarble.net">cspiek@bluemarble.net</a>
Richland - Marty Stephens	812.876.2509	<a href="mailto:rttfrontdesk@bluemarble.net">rttfrontdesk@bluemarble.net</a>
Salt Creek - Donn Hall	812.837.9140	<a href="mailto:donnhall403@yahoo.com">donnhall403@yahoo.com</a>
Van Buren - Rita Barrow	812.825.4490	<a href="mailto:ybtrita@bluemarble.net">ybtrita@bluemarble.net</a>
Washington - Barbara Ooley	812.876.1188	<a href="mailto:ooleyb@yahoo.com">ooleyb@yahoo.com</a>

- Also on the County website main page is an application for those wishing to have a gathering larger than the current limits can request an increase by submitting an application go to [www.co.monroe.in.us](http://www.co.monroe.in.us) for more information and the application.
- Monroe County Health Department has a complaint form on the County's website if you have a complaint or issue with a business or retail establishment concerning face coverings, social distancing or gathering sizes. There is also a hotline 812. 803-6360.  
**THIS IS NOT FOR COMPLAINTS ON INDIVIDUALS!**
- Monroe County Government CARES Act Reimbursement Funds are available for local businesses who have incurred out of pocket expenses due to the COVID 19 pandemic. For more information or to apply visit the Monroe County website [www.co.monroe.in.us](http://www.co.monroe.in.us)
- Accepting applications for all Boards and Commission. Visit [www.co.monroe.in.us](http://www.co.monroe.in.us) for a list of all the Boards and Commission and the application.
- Next Commissioners Meeting will be September 9, 10am via ZOOM

## XI. ADJOURNMENT



The minute's summary of the September 2, 2020 Board of Commissioners' meeting were approved on, September 9, 2020.

**Monroe County Commissioners**

Ayes:

Nays:

\_\_\_\_\_  
Julie Thomas, President

\_\_\_\_\_  
Julie Thomas, President

\_\_\_\_\_  
Lee Jones, Vice President

\_\_\_\_\_  
Lee Jones, Vice President

\_\_\_\_\_  
Penny Githens

\_\_\_\_\_  
Penny Githens

Attest:

\_\_\_\_\_  
Catherine Smith, Auditor

**\*The Board of Commissioners minutes will be in summary format during the Local Declaration of Emergency and the Governor's Executive Orders. Verbatim minutes will return when we are able to return to our normal practices.**

MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: 9/9/2020

Item for Formal Meeting? ☐

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☒

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

Include VENDOR's Name in title if appropriate

Matheu Architects proposal for Records office

Vendor #

9219

If new vendor, enter 'NEW'

All Grants must complete the following

Is this a grant request? Yes ☐

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☐

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency:

Federal Program:

CFDA #

Federal Award Number and Year:

Or other identifying number

Pass Through Entity

Amount Received

Federal:

State:

Local Match:

Total Received:

Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:

Fund Name: Records Perpetuation Fund

Fund Number 1189

Amount: \$9,000

If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.

Executive Summary:

This is a request to work with Mathue Architects to re-purpose and re-design the front customer counter and work area in the Records office. The counter was never really finished back when the courthouse was updated. We are in need of individual cash drawers for our deputy recorders and drawers and storage to allow for more counter space to work with the public and become compliant with our internal control plan.

In addition, we have nearly completed the scanning of plats and the originals and the cabinets will be going to the surveyor allowing us to expand the public work terminals. This design will include work tables, chairs and computer stations in the front area of the office.

The scope of services to be provided by Matheu will include: measured drawings, visual survey & photography of existing conditions, design and construction documents, design fee, and reimbursable expenses.

Person Presenting: Eric Schmitz

Department: Recorder

County Legal Review required prior to submission of this form for all contracts  
Attorney who reviewed: Margi Rice

Submitted by: Ashley Cranor

Date: 3/11/2020

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)



MATHEU ARCHITECTS, PC

205 N. College Ave  
Suite 010  
Bloomington  
IN 47404  
Tel. 812 339 1235  
Fax 812 339 1238  
[www.cmatheuarchitect.com](http://www.cmatheuarchitect.com)

February 3, 2020

Monroe County Recorder's Office  
100 West Kirkwood Ave., #122  
Bloomington, IN  
47404

Attention: Mr. Eric Schmitz – Monroe County Recorder  
[eschmitz@co.monroe.in.us](mailto:eschmitz@co.monroe.in.us)  
Ms. Ashley Cranor – Chief Deputy Recorder  
[acranor@co.monroe.in.us](mailto:acranor@co.monroe.in.us)

Re: Proposal for Architectural Services  
Monroe County Recorder's Office  
100 West Kirkwood Ave., #122  
Bloomington, IN 47404  
Project # 2002

Dear Mr. Schmitz:

Thank you for offering MATHEU ARCHITECTS, PC the opportunity to submit a proposal to provide architectural design services for the Recorder's Office Reception Area Renovation Project at the Monroe County Courthouse in Bloomington, Indiana.

Based on information we received from our tour and conversation with you in the Recorder's Office, we have put together a Scope of Work which reflects our understanding of the project and a Scope of Services which outlines the steps our office would take to complete the design documents. The associated fee reflects the Scope of Work and Scope of Services we would provide.

To: Mr. E. Schmitz  
From: Mr. K. Floyd  
Re: Monroe County Recorder's Office  
Date: February 3, 2020

**I. SCOPE OF WORK:**

It is our understanding that the Scope of Work for the Recorder's Office Renovation includes:

- The modification of the existing reception counter to accommodate (6) workstations with cash drawers.
- The addition of open roll-out shelves under the counter for supplies and equipment.
- The layout and selection of furniture for (3) – (4) workstations for a public work area to the right of the entry door.
- (1) – (2) options for future use of the area to the left of the entry door. This area may be a reception seating area or additional public work area.

**II. SCOPE OF SERVICES:**

As a means by which to complete the above Scope of Work, we would propose the following Scope of Services for the Recorder's Office Renovation Project:

**A. Measured Drawings:**

We would verify measurements of the building based on existing drawings. We would prepare/update existing conditions drawings in AutoCAD format.

**B. Visual Survey & Photography of Existing Conditions:**

We would visually survey the areas of renovation and photographically document the overall general conditions.

**C. Design and Construction Documents:**

The Architect would prepare design and construction documents to be used for cost estimating purposes and in the bidding for construction of the Project, if required.

MATHEU ARCHITECTS would propose the following work sequence:

**1. Schematic Design:**

- a. Owner Meeting: We would meet with Recorder's Office project representatives to review the Scope of Work and kick-off the project.
- b. Schematic Design Documents: We would prepare Schematic Design documents. Drawings would include architectural plans, reception desk elevations, furniture layout; & preliminary cost estimate.
- c. Owner Meeting: We would meet with Recorder's office project representatives to review the Schematic Design and to confirm design direction.

**2. Construction Documents:**

- a. Construction Documents: we would prepare Construction Documents. Drawings would include; architectural plans; reception desk elevations, sections, details; furniture layouts; & specifications. The drawings would also include general notes



To: Mr. E. Schmitz  
From: Mr. K. Floyd  
Re: Monroe County Recorder's Office  
Date: February 3, 2020

for reworking of voice, data, and electrical requirements for the new and relocated work stations.

- b. Construction Cost Estimate: We would update the construction cost estimate.
- c. Alternates: If requested, we would identify Alternate Items for the project to allow the owner flexibility with the construction cost of the project.
- d. Owner Meeting: The Architect would present the final Construction Documents to the Recorder's Office representatives for approval to distribute to a selected contractor.

3. Bidding: (Additional Service)

- a. Construction Bidding: If the project scope doesn't permit for the direct hiring of a contractor. We would assist the Owner in advertising and obtaining bids from general contractors to bid construction of the project. As part of this process we would electronically distribute bid documents, conduct a Pre-Bid Meeting with prospective bidders, and prepare and distribute addenda in response to contractors' questions. To publicly bid the project we would assist the Owner in preparing the Bidding Requirements, Contract Forms, Conditions of the Contract, & Division 1 Architectural Specifications.
- b. Bid Opening, Analysis, and Recommendation: We would assist the Owner with the construction bid opening, would review the bids, would prepare a bid analysis, and would make a contractor recommendation.

4. Owner-Contractor Agreements: We would assist the Owner in preparing the Owner-Contractor Agreement.

5. Construction Observation:

- a. Pre-Construction and Progress Meetings: We would conduct pre-construction and up to (2) progress meetings during construction and would prepare and distribute meeting notes.
- b. Site Visits: We would make regular site visits to observe construction and answer questions.
- c. Submittals Review: We would review, approve and or reject product data, samples, and other submittal requirements identified in the Specifications.
- d. Pay Application Review: We would review Contractor pay applications and make recommendations to the Owner for payment.
- e. Project Closeout: We would conduct final walk-throughs and prepare punch list items and review closeout documents.

**III. PROJECT FEE**

**A. Architectural Design Fee:**

For the Monroe County Recorder's Office Reception Area Renovation Project as described above in the Scope of Work and Scope of Services, MATHEU ARCHITECTS, PC would request

To: Mr. E. Schmitz  
From: Mr. K. Floyd  
Re: Monroe County Recorder's Office  
Date: February 3, 2020

stipulated sum fee of \$4,750.00 (Four Thousand Seven Hundred Fifty Dollars). This fee does not include Bidding the project. In the event that the project is required to be publicly bid the Additional Service fee would be \$1,250.00 (One Thousand Two Hundred Fifty Dollars).

**B. Reimbursable Expenses:**

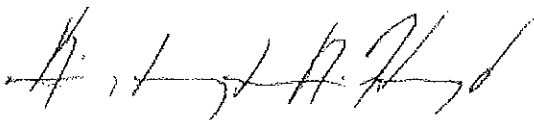
Reimbursable expenses would include printing/reproduction costs, MEP Engineering costs, Structural Engineering cost, State Plan Review submission cost. A 10% administrative multiplier would be added to all reimbursable expenses.

We do not anticipate that the project would require filing for State Plan review, Mechanical, Electrical, or Plumbing Engineering, but in the event that we determine a need these would be considered Reimbursable Expenses.

Once you are in agreement with the proposal, we would prepare an AIA Owner Architect Agreement for your review and signature. We would be able to begin the project in Mid-Late February 2020 and would anticipate that the work would take approximately 2 weeks. Please let us know if we may provide any clarification or additional information.

Thank you for giving MATHEU ARCHITECTS, PC the opportunity to present this proposal for the Monroe County Recorder's Office Reception Area Renovation Project. We look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristopher Floyd', is written over a horizontal line.

Kristopher Floyd, Associate

## Agreement for Professional Services

Agreement made between Matheu Architects, PC ("Contractor") and the Monroe County Recorder and Monroe County Board of Commissioners (collectively, "Monroe County"). Contractor and County mutually agree as follows:

The terms of the Agreement enlist Contractor to provide independent, professional services in order to assist Monroe County with strategic planning and accreditation. The following terms shall apply:

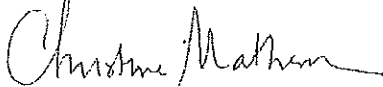
1. **Scope of Project and Price.** Monroe County wishes to redesign the Recorder's Office reception area and to retain the professional services of Contractor, as described in the attached *Proposal for Architectural Services*, which is marked as "Exhibit A", incorporated herein, and is made a part of this Agreement.

The total amount paid to Contractor under this Agreement shall not exceed Four Thousand Seven Hundred Fifty Dollars (\$4,750.00) without further written approval by Monroe County and the approving authorities listed below. Contractor shall submit invoices monthly, which shall be paid within forty-five (45) days of receipt. In the event Monroe County wishes to retain Contractor to manage the public bidding for construction services, the parties understand and agree that there would be an additional fee in an amount not to exceed One Thousand Two Hundred Fifty Dollars (\$1,250.00). Contractor's reimbursable expenses, described in Paragraph III(B) of Exhibit A, shall be in addition to the fees described above, and in no case shall they exceed Three Thousand Dollars (\$3,000.00) without further, written agreement of Monroe County and Contractor.

2. **Term.** The term of this Agreement shall be from the date executed by both parties, below, and shall terminate on or before August 1, 2020. Details in Exhibit A shall govern the performance of all work under this Agreement. This Agreement may be extended by both parties if done so mutually and in writing and approved in the same manner as this Agreement. Either party may terminate this Agreement by giving written notice to the other party at least thirty (30) days in advance of the intended date of termination.
3. **Indemnity.** Contractor assumes all risks and responsibilities for accidents, injuries or damages to person(s) or property related to performance pursuant to this Agreement, and agrees to indemnify and save harmless Monroe County from all claims, costs or suits of whatever nature, including attorneys' fees, related to performance of the Agreement, except such claims, costs or suits arising out of the negligence of Monroe County or its employees.
4. **Worker's Compensation.** To the extent required by law, Contractor shall purchase and maintain a policy of Worker's Compensation Insurance as required by the laws of the State of Indiana, and furnish a certificate of such insurance to Monroe County before commencement of work on the Agreement.
5. **Non-discrimination.** Contractor is aware of Monroe County's policy prohibiting harassment of any kind. If Contractor becomes aware of any harassment, Contractor shall immediately report harassment to the Monroe County Legal Department. In the performance of work under this Agreement, it is agreed that Contractor, any of its subcontractors, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any employee or job applicant with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of their race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran – or discriminate by reason of such factors, against any citizen of the State of Indiana who is qualified and available to perform the work.
6. **Compliance with Law.** Contractor shall comply with all State of Indiana and Monroe County applicable laws and regulations, including the County's policy prohibiting harassment. Contractor shall indemnify and save harmless Monroe County for any fines or expenses of any nature which it might incur from Contractor's noncompliance. *If required by law*, Contractor will comply with IC 22-5-1.7 et seq. Specifically including the following:
  - o Contractor to enroll in and verify the work eligibility status of all newly hired employees of the Contractor through the E-Verify program.
  - o Contractor is not required to verify the work eligibility status of all newly hired employees of the Contractor through the E-Verify program, if the E-Verify program no longer exists.
  - o Contractor must sign an affidavit affirming that Contractor does not knowingly employ an unauthorized alien.

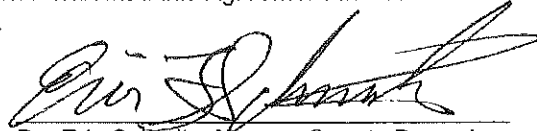
7. **Independent Contractor.** It is fully understood and agreed that Contractor and its employees are serving as independent contractors and are not employed by Monroe County. As such the parties agree to the following:
- Contractor is NOT performing this work under the supervision or direction of Monroe County.
  - Contractor shall use non-County materials and equipment to perform this work and to develop and duplicate any and all materials.
  - Contractor shall have exclusive control over the means, methods and details of fulfilling the obligations under this Agreement. Contractor is not to receive direction or supervision from any Monroe County employee or representative. Monroe County will provide feedback to and review any drafts submitted by Contractor.
  - Contractor executes this Agreement as an independent contractor, and shall not be considered an employee or agent of Monroe County for any purpose.
  - Contractor shall pay all taxes, withholdings and contributions required by Social Security (FICA) laws, Indiana and federal income tax laws, and Indiana unemployment insurance laws, as required by law.
8. **Captions.** The captions of the Agreement are for convenience only, and do not in any way limit or amplify its terms.
9. **Governing Law.** This Agreement shall be governed in accordance with the laws of the State of Indiana. The venue for any litigation resulting from or related to this Agreement shall be Monroe County, Indiana.

**IN WITNESS WHEREOF,** Contractor and Monroe County have executed this Agreement as dated below and, if executed in two counterparts, each shall be deemed an original.



By: Christine Matheu, President/Matheu Architects, P.C.

Date: 03-09-20



By: Eric Schmitz, Monroe County Recorder

Date: 9/1/2020

APPROVED BY THE MONROE COUNTY BOARD OF COMMISSIONERS  
this \_\_\_\_\_ day of \_\_\_\_\_, 2020, pursuant to Monroe County Code Chapter 266-5.

"AYES"

\_\_\_\_\_  
Julie Thomas, President

\_\_\_\_\_  
Lee Jones, Vice President

\_\_\_\_\_  
Penny Githens, Member

ATTEST:

\_\_\_\_\_  
Catherine Smith, Auditor

"NAYS"

\_\_\_\_\_  
Julie Thomas, President

\_\_\_\_\_  
Lee Jones, Vice President

\_\_\_\_\_  
Penny Githens, Member



## MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: 09/09/2020

Item for Formal Meeting? ☒

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☐

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

*Include VENDOR's Name in title if appropriate*

Request for Signature for Safe Place Contract with National Cinemedia

*All Grants must complete the following*

Is this a grant request? Yes ☐

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☐

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency:

Federal Program:

CFDA #

Federal Award Number and Year:

*Or other identifying number*

Pass Through Entity

### Amount Received

Federal:

State:

Local Match:

Total Received:

### Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:

Fund Name: RHY Safe Place

Fund Number: 8120

Amount: \$1,440

**If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.**

Executive Summary:

The Safe Place program would like to run an advertising campaign in local AMC Movie Theaters and through online streaming services. The Safe Place program has worked with National Cinemedia for over 3 years in providing this outreach. This campaign projects 26,215 impressions. This request is for signature on and payment of an advertising contract with National Cinemedia. The full cost of this is provided in the Runaway and Homeless Youth Grant.

Person Presenting: Brigitt Nasby

Department: Youth Services Bureau

Attorney who reviewed: Margie Rice

*County Legal Review required prior to submission of this form for all contracts*

Submitted by: J. Thompson

Date: 08/26/2020

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's

Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)

In-Theater Advertising Proposal  
Prepared for Youth Services Bureau of Monroe County  
Created for Brigitt Nasby

Fall Campaign 2020



August 20, 2020  
Created by Kimber McElhinney  
Email: [Kimber.McElhinney@ncm.com](mailto:Kimber.McElhinney@ncm.com)  
Phone: +1 (317) 938-8499  
Fax:

## Regional Insertion Order Agreement

6300 South Syracuse Way, Suite 300 \* Centennial, Colorado 80111 \* 800.828.2828

The advertiser listed below ("Advertiser") desires to place the order set forth below ("Order") with National CineMedia, LLC ("NCM") for the regional exhibition of the advertising set forth below ("Advertising") under the terms set forth in this Regional Advertising Insertion Order and Agreement ("Agreement"), including this Order and the Regional Advertising Insertion Order Agreement Terms and Conditions attached hereto (the "Terms and Conditions"). NCM and Advertiser agree as follows

<b>Advertiser Information</b> Youth Services Bureau of Monroe County 615 S Adams St  Bloomington, IN 47403 Phone: (812) 349-2043 Fax: Briggitt Nasby bnasby@co.monroe.in.us	<b>Billing Information</b> Youth Services Bureau of Monroe County 615 S Adams St  Bloomington, IN 47403 Phone: (812) 349-2043 Fax: Briggitt Nasby bnasby@co.monroe.in.us	<b>Account Director Information</b> Acct. Dir.: Kimber McElhinney Phone: +1 (317) 938-8499 Fax: Email: Kimber.McElhinney@ncm.com
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**Order:** ORD-2008-00057    **Type:** Renewal

### Scenario 2

Segment 2 CPS

**Start:** 10/2/2020

**End:** 11/12/2020

**Weeks:** 6.00

**Weight:** Best Available

**Duration/Units:** 00:15

Creative #	Theater Code	Theater Name	Location	# Screens	Net Rate	Net Media
502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	\$8.00	\$528.00
502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	\$11.00	\$792.00

Regional LEN

**Start:** 10/2/2020

**End:** 11/12/2020

**Weeks:** 6.00

**Weight:** Best Available

**Duration/Units:** 00:15

Creative #	Theater Code	Theater Name	Location	# Screens	Net Rate	Net Media
502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	\$5.00	\$30.00
502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	\$5.00	\$30.00

Regional LEN

**Start:** 10/2/2020

**End:** 11/12/2020

**Weeks:** 6.00

**Weight:** Best Available

**Duration/Units:** 00:15

## Regional Insertion Order Agreement

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Creative #	Theater Code	Theater Name	Location	# Screens	Net Rate	Net Media
502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	\$5.00	\$30.00
502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	\$5.00	\$30.00



## Regional Insertion Order Agreement

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Payment	Comments & Special Instructions:	Total Media	\$1,440.00
Payment Terms: Monthly		Media Services	\$0.00
Payment Method: Check		Creative Services	\$0.00
		Other Services	\$0.00
P.O. Number:		Total Due	\$1,440.00
Promotional items are non-commissionable. Special effects, customized placement, rush charges, and changes are extra. All duplication, creative services, and network implementation fees are at advertiser's expense. Fulfillment costs are estimated and final costs may vary.			
BY SIGNING BELOW, ADVERTISER AGREES TO BE LEGALLY BOUND BY THE TERMS OF THIS AGREEMENT (INCLUDING THE TERMS AND CONDITIONS) AS OF THE DATE OF SIGNATURE BY NCM BELOW AND HEREBY AUTHORIZES AND DIRECTS NCM TO PROCEED UNDER THE TERMS OF THIS AGREEMENT WITH THE ADVERTISING AND OTHER SERVICES SET FORTH ON THIS ORDER AND, UNLESS OTHERWISE AGREED BY THE PARTIES, ANY OTHER ORDER PLACED BY ADVERTISER FOR REGIONAL ADVERTISING INSERTIONS ACCEPTED BY NCM			

Advertiser Signature:	Date:	National CineMedia, LLC	Date:
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Order Number: ORD-2008-00057					
A	B	C	D	E	F
Logged	Scheduled	Creative Approved	Credit Approved	Posted	Audit

# Regional Insertion Order Agreement

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## NATIONAL CINEMEDIA, LLC REGIONAL/LOCAL ADVERTISING INSERTION ORDER AND AGREEMENT Terms and Conditions

The Agreement between National CineMedia, LLC ("NCM") and Advertiser will include, and all Advertising exhibited by NCM for Advertiser will be subject to, the following Terms and Conditions:

1. **NCM Services.** Subject to the terms of this Agreement, NCM will arrange for the Advertising to be exhibited as specified in each Order entered into under this Agreement. Notwithstanding the foregoing, the exhibition of the Advertising, and performance by NCM of its obligations under this Agreement, will be excused to the extent that (and may be delayed if) Advertiser fails to perform its obligations under this Agreement in a timely manner or otherwise fails to comply with the terms of this Agreement.

2. **In-Theatre Advertising.** All In-Theatre Advertising or other content will be subject to any audience or advertising restrictions or limitations imposed on NCM by motion picture studios, producers, distributors, exhibitors or other third parties. In addition, in its sole and absolute discretion, NCM may elect to not exhibit or present any In-Theatre Advertising or other content before any motion picture or group of motion pictures with particular movie ratings. The screen count or theatre locations for In-Theatre Advertising that are set forth on the Order may be substituted by NCM in its reasonable discretion upon notice to Advertiser. On-screen advertising placement is subject to availability and theatre lighting is subject to technical availability. The exhibition of In-Theatre Advertising shall be deemed to be delivered by NCM if it is displayed in a majority of showings in a single theatre during the applicable week.

3. **Internet and Online Advertising.** The American Association of Advertising Agencies (AAAA)/Interactive Advertising Bureau (IAB) Standard Terms and Conditions for Internet Advertising for Media Buys One Year or Less, Version 3.0 (the "IAB Terms"), a copy of which is available upon request from NCM, are incorporated into this Agreement for all Internet and online Advertising purchased under this Agreement. "Colorado" and "Denver County, Colorado" are inserted into the respective placeholders in Section XIV(d) of the IAB Terms. If there is no Agency for this Insertion Order, "Advertiser" replaces "Agency" in all instances in the IAB Terms and Section III(c) of the IAB Terms is deleted. In the event of any conflict between the terms of this Agreement and the IAB Terms, the terms of this Agreement will control.

4. **Fees and Payment.** Advertiser will pay all fees as specified on each Order within 30 days of invoice. If Advertiser fails to pay NCM any undisputed amount when due, Advertiser will be obligated to pay interest on the unpaid amount from the date such unpaid amount was due until it is paid at the rate of 12% per annum.

5. **Advertiser Obligations.** In addition to the other obligations of Advertiser set forth in this Agreement, Advertiser will, at its expense, and at its risk of loss, provide NCM with the Advertising material as required by NCM at least 4 business days in advance of the date scheduled by NCM for transfer of the materials for use or production as Advertising (dependent upon Advertising vehicle selected or if otherwise agreed to by the parties).

### 6. Content.

6.1 **Advertiser Content.** All advertising, information, data, text, photographs, video, images, audio, call to action, and other content ("Content") provided by Advertiser for use in the Advertising ("Advertiser Content") is subject to prior and on-going approval by NCM and the theatre circuits where NCM will display the Advertiser Content. All Advertiser Content must be in compliance with the Media Specifications, Creative Deadlines and Advertising Guidelines at <http://adspecs.ncm.com>. NCM reserves the right to make technical changes to Advertiser Content to ensure conformance with technical specifications. Advertiser Content shall not include the exhibition or display of any trademark, service mark, logo or other branding of a third party without prior written approval of NCM. NCM may reject any Advertiser Content or Advertising for any reason. NCM has no obligation to review any Advertiser Content or Advertising for compliance with this Agreement or any applicable law, rule, or regulation. Advertiser will remain solely responsible for any liability arising from the Advertiser Content or Advertising, including but not limited to liability arising from any laws relating to obscenity, defamation, trade libel, the right of publicity or likeness, the right of or to privacy, any laws relating to intellectual property, and any laws relating to advertising. If any Advertiser Content or Advertising is rejected by NCM or a theatre circuit, Advertiser will promptly replace the Advertiser Content or Advertising with Advertiser Content or Advertising acceptable to NCM so as not to delay the schedule for the display of the Advertising. Advertiser will maintain back-up copies of all Advertiser Content and Advertising and NCM will not be liable for loss or damage to any Advertiser Content or Advertising. Advertiser agrees to and hereby does grant to NCM all rights, authorizations, consents, licenses, and clearances (collectively, "Licenses") necessary or appropriate to exhibit, distribute, broadcast, publicly present and publicly perform the Advertising and as necessary or appropriate for the performance by NCM of its other obligations under this Agreement, including, without limitation, all Licenses necessary for the public performance of musical compositions. Advertiser also grants NCM a limited License to use and display portions of the Advertising in connection with the promotion of NCM's business. Advertiser acknowledges that in certain designated "Non-Digital" theatres, NCM may not be able to immediately remove Advertiser Content upon request of Advertiser.

6.2 **NCM Content.** All Content, including, without limitation, any derivatives, modifications or new versions of any Advertiser Content prepared or delivered by NCM under this Agreement ("NCM Content"), and all intellectual property rights therein and applicable thereto, are and will remain the sole and exclusive property of NCM. Advertiser agrees that NCM will retain sole and exclusive title to all NCM Content and agrees to and hereby makes all assignments necessary to provide NCM such sole and exclusive title. Advertiser receives no rights or licenses in or to any NCM Content (or in or to any NCM trademarks) under this Agreement and NCM expressly reserves all such rights.

7. **Promotional Materials.** All materials distributed or to be distributed by or on behalf of Advertiser as part of or in connection with the Advertising, including lobby promotional material ("Promotional Materials"), will be delivered to locations (at the sole expense of Advertiser and with Advertiser bearing all risk of loss) in accordance with the procedures, specifications and deadlines established by NCM. All Promotional Materials are subject to NCM and theatre circuit approval, and their final placement is determined by theatre management. At its discretion, NCM may delay the distribution of Promotional Materials. Certain Promotional Material, as determined by NCM, will contain the following statement: "THIS PROMOTION IS NOT ENDORSED BY NCM, THIS THEATRE OPERATOR OR ANY OF THEIR AFFILIATES. BY FILLING OUT THIS FORM YOU WILL OR CAN BE SOLICITED".

8. **Representations and Warranties.** Advertiser represents and warrants to NCM that: (1) Advertiser has the legal right and authority to enter into this Agreement and to perform its obligations under the Agreement; (2) Advertiser has all rights necessary to enable NCM to exercise the rights granted under this Agreement; (3) the exhibition and other use of the Advertiser Content and Advertising, the distribution and other use of the Promotional Materials, and the other activities of Advertiser and obligations of NCM under this Agreement will not violate applicable local, state and federal laws, rules, and regulations, including, without limitation, laws and regulations governing privacy and email/spam, or any self-regulatory rules or guidelines that are applicable to, or to which the Advertiser, the agency or the Advertiser Content, Advertising or Promotional Materials may be subject, or any duty toward or rights of any third party; (4) all information and data provided to NCM in connection with this Agreement is correct and current; (5) Advertiser will not collect any personally identifiable information (including, without limitation, any e-mail addresses, full names, mailing addresses and phone number of theatre patrons), or transfer any such information to any third party, without the prior written approval of NCM; (6) the Advertiser Content and Advertising do not contain any viruses, Trojan horses, worms, time bombs, or any other similar software, data, or programs that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, information, or property of another; (7) the Advertiser Content,



# Regional Insertion Order Agreement

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Advertising and Promotional Materials are not, in whole or in part, pornographic, obscene, abusive, threatening, indecent, vulgar, defamatory, harassing, do not otherwise constitute trade libel, a violation of the right of publicity or an invasion of privacy, do not violate any other laws relating to advertising, and are not otherwise objectionable or unlawful; (8) the Advertiser Content, Advertising, and Promotional Materials are not false or misleading; (9) the Advertiser Content, Advertising and Promotional Materials do not infringe, violate or misappropriate any third party copyright, trademark, right of or to privacy, publicity or likeness, or other intellectual property or proprietary right; and (10) the Advertiser Content, Advertising and Promotional Materials are free from defects and materials in workmanship. Advertiser further covenants that if Advertiser at any time fails to have all rights necessary to enable NCM to perform its obligations and exercise its rights under this Agreement, Advertiser will obtain all such rights, and will be solely responsible for any liability of either party arising out of any claim, allegation, suit or proceeding alleging that either party does not have such rights.

**9. Disclaimer and Limitation of Liability.** NCM PROVIDES ALL NCM CONTENT AND ALL SERVICES PERFORMED BY NCM UNDER THIS AGREEMENT "AS-IS" AND "AS-AVAILABLE." NCM MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE NCM CONTENT OR SUCH SERVICES, AND ADVERTISER HAS NOT RELIED ON ANY REPRESENTATIONS OR WARRANTIES OF NCM REGARDING THE NCM CONTENT OR SUCH SERVICES. NCM EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES REGARDING THE NCM CONTENT AND SUCH SERVICES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. NCM'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID TO NCM UNDER THIS AGREEMENT DURING THE 3 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL NCM BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES RELATING TO LOST DATA, LOST REVENUE OR PROFITS, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF NCM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY UNEXCUSED FAILURE BY NCM TO PERFORM ANY OBLIGATION UNDER THIS AGREEMENT WILL AFFECT ONLY THE OBLIGATION WITH RESPECT TO WHICH THE FAILURE OCCURRED AND WILL IN NO WAY AFFECT ANY OTHER OBLIGATIONS OF NCM UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, ADVERTISER'S SOLE AND EXCLUSIVE REMEDY FOR NCM'S FAILURE TO EXHIBIT THE ADVERTISING AS SET FORTH ON THE ORDER AND IN SECTION 2 WILL BE FOR NCM TO "MAKE-GOOD" (MAKE AVAILABLE TO ADVERTISER AN ALTERNATIVE TIME PERIOD OF REASONABLY COMPARABLE VALUE FOR THE RE-EXHIBITION OF SUCH ADVERTISING). MAKE-GOOD IS ONLY AVAILABLE UPON ADVERTISER'S WRITTEN REQUEST RECEIVED BY NCM WITHIN ONE MONTH OF THE APPLICABLE FAILURE AND MUST BE DISPLAYED WITHIN ONE YEAR FOLLOWING THE APPLICABLE FAILURE. ADVERTISING SHALL BE RUN ON A PER SCREEN OR PER THEATRE /PER WEEK BASIS AND REGARDLESS OF ANY OTHER LANGUAGE TO THE CONTRARY, NCM HAS NOT MADE AND IS MAKING NO REPRESENTATIONS WITH REGARD TO NUMBER OF IMPRESSIONS. NCM SHALL USE COMMERCIAL REASONABLE EFFORTS TO CAUSE ADVERTISING TO BE DISPLAYED IN ALL APPLICABLE SHOWINGS AT THE RELEVANT THEATRES, BUT NCM DOES NOT GUARANTEE THAT ADVERTISING SHALL BE DISPLAYED IN A SPECIFIC NUMBER OF SHOWINGS AT ANY THEATRE.

## 10. Indemnification.

**10.1** Advertiser is responsible for and will indemnify, defend, and hold harmless NCM and its subsidiaries, exhibitors and affiliates, and their owners, officers, directors, employees and agents, from and against any and all direct and indirect losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from or arising out of any: (1) actual or alleged breach by Advertiser of a provision of this Agreement; (2) negligence or willful misconduct on the part of Advertiser; (3) exhibition, distribution, display, performance, reproduction, or other use by NCM of the Advertising, Advertiser Content or Promotional Materials; or (4) damage to property or injury to or death of any person directly or indirectly caused by any use or misuse of any Advertiser Content or Advertising, including, without limitation, any Promotional Materials or other packaging or materials used in connection therewith. NCM will provide Advertiser with notice of any such claim or allegation, and NCM has the right to participate in the defense of any such claim at its expense.

**10.2** NCM is responsible for and will indemnify, defend, and hold harmless Advertiser and its subsidiaries, affiliates, and their officers, directors, employees and agents, from and against any and all direct and indirect losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from or arising out of any third party claims related to (1) gross negligence or willful misconduct on the part of NCM; or (2) exhibition, distribution, display, performance, reproduction, or other use by NCM of the NCM Content, specifically excluding any Advertiser Content. Advertiser will provide NCM with notice of any such claim or allegation, and Advertiser has the right to participate in the defense of any such claim at its expense.

**11. Termination and Remedies.** NCM may terminate this Agreement immediately upon any breach by Advertiser of this Agreement (in addition to any other available remedy) or upon not less than 30 days' notice to Advertiser for any other reason. Upon termination for breach by Advertiser, Advertiser will not be entitled to the refund of any prepaid fees. Upon any termination, NCM is not required to preserve or maintain any Advertiser Content or Advertising. If Advertiser desires NCM to provide Advertiser with a copy of any Advertiser Content or Advertising, Advertiser must notify NCM in writing within 60 days of the last exhibition of the Advertising (such copy to be provided at Advertiser's sole expense).

**12. Cancellation.** Advertiser may not modify or cancel this Agreement except by written consent of NCM.

**13. Insurance.** Advertiser represents that it maintains a general liability insurance policy (with a financially sound and reputable insurance company) in such amounts as Advertiser deems reasonably adequate for its business and as required to perform its obligations hereunder. Upon request, Advertiser will furnish NCM with a certificate of insurance evidencing the foregoing coverage.

**14. Confidentiality.** Advertiser acknowledges that the Posting Information (as defined below) is confidential, and is disclosed to Advertiser solely on the condition Advertiser agrees, and it does hereby agree (for itself, its agents, employees and affiliates (collectively, the "Representatives")) that, it and its Representatives: (i) will not disclose any Posting Information to any third party; (ii) will not use the Posting Information in any business or capacity other than for its own internal business purposes under the Agreement; (iii) will implement such procedures to prevent unauthorized use or disclosure of the Posting Information as it uses to prevent disclosure, publication, dissemination or use of its own proprietary information of like nature but using at least reasonable care. "Posting Information" as used herein shall mean any post-buy analysis, posting information, post-campaign delivery reports, attendance reports, or other proof of performance. Advertiser will only disclose Posting Information to its Representatives that have a need to know and who are subject to a confidentiality obligation at least as restrictive as this Agreement. Advertiser will only disclose the Posting Information, in whole or in part, to a third party with the express, prior written consent of NCM and provided such third party is subject to a confidentiality obligation at least as restrictive as this Agreement. If Advertiser is an agency signing on behalf of another advertising party, Advertiser will ensure that such advertising party complies with the terms of this Agreement.

**15. Additional Terms.** Advertiser may not assign or otherwise transfer this Agreement or any of Advertiser's rights hereunder without the prior permission of NCM. Any attempt to do so in violation of the foregoing sentence will be null and void. This Agreement will be binding on the parties and upon their heirs, personal representatives, executors, administrators, successors and assigns. The parties agree for themselves and their heirs, personal representatives, executors, administrators, successors or assign to execute any instruments and to perform any acts that may be necessary or



# Regional Insertion Order Agreement

6300 South Syracuse Way, Suite 300 \* Centennial, Colorado 80111 \* 800.828.2828

proper to carry out the purposes of this Agreement. This Agreement will be governed by the laws of the State of Colorado excluding its conflict of laws principles. The parties hereby irrevocably consent to the exclusive jurisdiction and venue in the state and federal courts sitting in Arapahoe County, Colorado for any dispute concerning the interpretation or effect of this Agreement. In all such disputes arising under this Agreement, the parties expressly waive all constitutional and statutory rights to trial by jury. In any action to enforce the terms of this Agreement, the prevailing party will be entitled to recover all of its costs relating thereto, including, without limitation, reasonable attorneys' fees, court costs and any other costs of collection. The relationship between the parties under this Agreement is one of independent contractors. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach. If any provision of this Agreement is deemed unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Any failure or delay in performance by a party will be excused (and will not constitute a breach of this Agreement) to the extent due to any cause not reasonably within such party's control, including, without limitation, third party acts, omissions or failures, casualty, labor disputes, governmental action or acts of God. This Agreement sets forth the entire understanding of the parties and supersedes any and all prior oral and written agreements or understandings between the parties regarding the subject matter of this Agreement. In the event that any terms that may appear on an Advertiser's or agency's form of purchase order, insertion order, or other order form vary from or conflict with the terms of this Agreement (including without limitation pre-printed terms), the terms of this Agreement will control. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Advertiser executes this contract as an agency or media buyer for a client, such Advertiser and its client shall be jointly and severally responsible for all payments hereunder. The Agreement may be executed in counterparts, each of which is deemed an original and all of which together constitute one document. Each party agrees that electronic signatures of the parties, whether digital or encrypted, have the same force and effect as manual signatures. Counterpart signatures, whether digital or manual, may be delivered by fax, email or other electronic means.



## **Billing Acknowledgement**

*To be completed by the Client's accounts payable/accounting department*

Client Name:	Youth Services Bureau of Monroe County
AP Contact Name:	Robyn Muder
AP Address:	615 S Adams St Bloomington, IN 47403
AP Phone:	812-349-2506
AP E-mail:	Rmuder@co.monroe.in.us

Order Number:	ORD-2008-00057
Billing Frequency Requested:	<input checked="" type="checkbox"/> Bill in Full (payment due 30 days from invoice date) <input type="checkbox"/> Monthly Installments <input type="checkbox"/> Other*

Purchase Order number to be referenced (when applicable):

**Check this box if you would like to receive electronic invoices:** ☐

\*Other Billing Instructions:

## Scenario 2

### 8/20/2020 Displayed by Theater/Zip Code

#### Segment 2 CPS 0:15 10/2/2020 - 11/12/2020 (6 weeks)

DMA #	DMA	Creative #	Theater Code	Theater Name	Location	# of Screens	Projected Impressions	Net Rate	Net Weekly Cost	Net Media
25	Indianapolis	502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	5,658	\$8.00	\$88.00	\$528.00
25	Indianapolis	502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	11,359	\$11.00	\$132.00	\$792.00
				2		23	17,017	\$9.50	\$220.00	\$1,320.00

#### Regional LEN 0:15 10/2/2020 - 11/12/2020 (6 weeks)

DMA #	DMA	Creative #	Theater Code	Theater Name	Location	# of Screens	Projected Impressions	Net Rate	Net Weekly Cost	Net Media
25	Indianapolis	502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	1,529	\$5.00	\$5.00	\$30.00
25	Indianapolis	502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	3,070	\$5.00	\$5.00	\$30.00
				2		23	4,599	\$5.00	\$10.00	\$60.00

#### Regional LEN 0:15 10/2/2020 - 11/12/2020 (6 weeks)

DMA #	DMA	Creative #	Theater Code	Theater Name	Location	# of Screens	Projected Impressions	Net Rate	Net Weekly Cost	Net Media
25	Indianapolis	502950	AMC6083	Bloomington 11	Bloomington, Indiana	11	1,529	\$5.00	\$5.00	\$30.00
25	Indianapolis	502950	AMC6081	Bloomington 12	Bloomington, Indiana	12	3,070	\$5.00	\$5.00	\$30.00
				2		23	4,599	\$5.00	\$10.00	\$60.00

#### Program Totals

Total Projected Impressions:	26,215
Total Net Media:	\$1,440.00
Total Media Services:	\$0
Total Creative Services:	\$0
Total Other Services:	\$0
Net Total:	\$1,440.00

#### Footnotes:

NCM Proposal for Youth Services Bureau of Monroe County Proprietary & Confidential Page 9 | Order Type : Renewal | ORD-2008-00057 | Scenario 2







# Creative Production Order Form

Page 1

<b>Advertiser Information</b> Youth Services Bureau of Monroe County 615 S Adams St  Bloomington, IN 47403 Phone: (812) 349-2043 Fax: Brigitt Nasby bnasby@co.monroe.in.us	<b>Billing Information</b> Youth Services Bureau of Monroe County 615 S Adams St  Bloomington, IN 47403 Phone: (812) 349-2043 Fax: Brigitt Nasby bnasby@co.monroe.in.us	<b>Account Director:</b> Kimber McElhinney Phone: +1 (317) 938-8499 Fax: Email: Kimber.McElhinney@ncm.com
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**Order:** ORD-2008-00057

**Type:** Renewal

**Creative Name:** Fall Campaign 2020 **502950**

**Start Date:** 10/2/2020

**Ratings:** G, PG, PG-13, R

**Notes / Special Instructions:**

**Media Services:**

Description	Fee

**Media Services SubTotal:** \$0.00

**Creative Services:**

Description	Fee
Ad Tag - Externally Produced Ads	\$0.00

**Creative Services SubTotal:** \$0.00

When sending your media/creative materials to us, please include this Creative Production Order Form with your materials.

Send materials to:

National CineMedia

Attention: Sales Operations

6300 South Syracuse Way, Suite 300

Centennial, Colorado 80111

Please submit all creative materials promptly. If your creative is not received within NCM's standard production turnaround time, the on-screen start date for your ad will be delayed.

Thank you!

## MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: September 9, 2020

Item for Formal Meeting? ☒

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☐

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

*Include VENDOR's Name in title if appropriate*

A contract with ASI regarding cleaning of Highway and Emergency Management

Vendor #

*If new vendor, enter 'NEW'*

*All Grants must complete the following*

Is this a grant request? Yes ☐

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☐

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency:

Federal Program:

CFDA #

Federal Award Number and Year:

*Or other identifying number*

Pass Through Entity

**Amount Received**

Federal:

State:

Local Match:

Total Received:

**Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:**

Fund Name: County General

Fund Number: 1000

Amount: \$400 biweekly

**If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.**

Executive Summary:

This agreement is for ASI to perform cleaning services in the administrative portion of the Highway Garage and the Emergency Management/ Weights and Measures space.

Person Presenting: Jeff Cockerill

Department: Legal

Attorney who reviewed: Jeff Cockerill

*County Legal Review required prior to submission of this form for all contracts*

Submitted by: Jeff Cockerill

Date: 9/4/20

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's

Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)

Page 29 of 88

Form Approved 1/1/19

## Highway Garage and Emergency Management Cleaning Contract

Agreement made the \_\_\_\_ day of \_\_\_\_, 2020, between ASI Facility Services, ("Contractor") and Board of Commissioners of Monroe County ("Board"). The Contractor and Board mutually agree as follows:

1. **Project.** The undersigned Contractor, shall clean Highway Garage administrative and breakroom once a month. Every week we will clean bathrooms and entry. Contact will be Lisa Ridge. We will also clean the Emergency management building administrative offices once a month. The bathrooms and entryway will be weekly. Contact will be Allison Moore.
2. **Term.** All terms and conditions as agreed to in the Contract between Contractor and Board on 2/28/14. Contractor shall work with Lisa Ridge for scheduling on the Highway Garage and Allison Moore for the Emergency Management Building. It is understood that this contract is in addition to any provisions of the 2014 agreement, as amended. Either party may terminate this agreement by giving 30 days written notice to the other party. This contract is subject to approval of appropriations by the County Council.
3. **Cost.** The total cost of the work shall be \$400 biweekly, but shall not exceed the amount appropriated by the County Council.
4. **Worker's Compensation.** Contractor shall purchase and maintain a policy of Worker's Compensation Insurance as required by the laws of the State of Indiana, and furnish a certificate of such insurance to the Board before commencement of work on the Project. Failure to provide this certificate may be regarded by the Board as material breach of this Agreement, and may result in its cancellation without further cause.
5. **Liability Insurance.** Contractor shall purchase and maintain comprehensive general liability insurance in amounts of at least 1 million per occurrence, and 2 million dollars aggregate, and furnish proof of such insurance to the Board before commencement of work on the Project. Failure to provide this certificate may be regarded by the Board as a material breach of this Agreement, and may result in its cancellation without further cause.
6. **Indemnity.** Contractor assumes all risks and responsibilities for accident, injuries or damages to person or property related to performance of the Project, and agrees to indemnify and save harmless the Board from all claims, costs or suits of whatever nature, including attorneys' fees, related to performance of the Project, except such claims, costs or suits arising out of the fault of the Board or its employees.
7. **Non-discrimination.** In the performance of work under this contract, it is agreed that Contractor, any of its subcontractors, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any employee or job applicant with respect to his, hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin or ancestry – or discriminate by reason of such factors, against any citizen of the State of Indiana who is qualified and available to perform the work.

It is further agreed that a penalty may be deducted from the contract in the sum of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of this provision. If a second or subsequent violation occurs, this contract may be terminated, and all monies due or to become due hereunder may be forfeited. It is further agreed that a breach of this covenant may be considered a material breach of the contract.

8. **Compliance with Law.** Contractor shall, at its own expense, obtain all licenses and permits which may be necessary to complete the Project. Contractor shall comply with all applicable laws and regulations, and indemnify and save harmless the Board for any fines or expenses of any nature which it might incur from Contractor's noncompliance, including laws and regulations enforced by the State Fire Marshal, State Building Commissioner, Department of Fire Prevention and Building Safety, State Department of Health, O.S.H.A., state and local building codes and the Americans with Disabilities Act. Contractor will comply with IC 22-5-1.7-3. Specifically including the following:
- Contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program.
  - Contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists.
  - Contractor must sign an affidavit affirming that Contractor does not knowingly employ an unauthorized alien.
9. **Independent Contractor.** It is understood and agreed that Contractor executes this Agreement as an independent contractor, and shall not be considered an employee or agent of the Board for any purpose. Contractor shall have exclusive control over the means, methods and details of fulfilling its obligations under this Agreement. Contractor shall pay all taxes, withholdings and contributions required by Social Security (FICA) laws, Indiana and federal income tax laws, and Indiana unemployment insurance laws.
10. **Captions.** The captions of the Agreement are for convenience only, and do not in any way limit or amplify its terms.
11. **Governing Law.** This agreement shall be governed in accordance with the laws of the State of Indiana.

**IN WITNESS WHEREOF,** Contractor and Board have executed this Agreement as dated below in two counterparts, each of which shall be deemed an original.

ASI Facility Services  
"Contractor"

Board of Commissioners of Monroe County  
"Board"

\_\_\_\_\_  
by

Date \_\_\_\_\_

\_\_\_\_\_  
ATTEST: \_\_\_\_\_, 2020

\_\_\_\_\_  
Catherine Smith, Auditor

# MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: 9/9/2020

Item for Formal Meeting? ☒

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☐

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

Include VENDOR's Name in title if appropriate

Change order #21 and #22 for the Fullerton Pike, Phase I road project.

Vendor #

If new vendor, enter 'NEW'

All Grants must complete the following

Is this a grant request? Yes ☒

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☒

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency: INDOT

Federal Program: Transportation

CFDA # 20.205

Federal Award Number and Year:

Or other identifying number

Pass Through Entity Des #0801059

Amount Received

Federal:

State: \$5,242.40

Local Match: \$1,310.60

Total Received: \$6,553.00

Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:

Fund Name: Local Road and Street

Fund Number 1169

Amount: \$6,553.00

If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.

Executive Summary:

Change Order #21- An inlet was reconstructed due to field adjustments needed for pipe invert and pipe diameter size. The amount of this change order is \$2,651.00

Change Order #22- This change order is for the installation of a Type E inlet. The inlet was added to deflect the proposed 18 inch storm pipe connecting to the curb inlet. This was needed to allow the pipe alignment to go between a utility pole and an existing sanitary sewer trunk line. The change order cost is \$3,902.00

Person Presenting: Lisa Ridge

Department: Highway

County Legal Review required prior to submission of this form for all contracts

Attorney who reviewed: Lee Baker

Submitted by: Lisa Ridge

Date: September 3, 2020

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's

Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)



Contract No:R -31902

Change Order No.: 021

**INDIANA Department of Transportation  
Construction Change Order and Time Extension Summary**

Page: 1

<b>Contract Information</b>	Contract No.: R -31902	Letting Date:12/14/2016	
District:SEYMOUR DISTRICT	AE:Wren, Rachel	PE/S:Lenglade, Jon	Status:Pending

<b>Change Order Information</b>	Change Order No.: 021	EWA: Y or Force Acct: N
Date Generated: 07/13/2020	Date Approved: 00/00/0000	
Reason Code: CHANGED COND, Constructability Related		

Description: Inlet, Reconstruct

Original Contract Amount	\$ 5,083,259.46	
Current Change Order Amount	\$ 2,651.00	Percent: 0.052 %
Total Previous Approved Changes	\$ 560,364.52	Percent: 11.024 %
Total Change To-Date	\$ 563,015.52	Percent: 11.076 %
Modified Contract Amount	\$ 5,646,274.98	

**Time Extension Information**

Date Initiated 00/00/0000	Date Completed 00/00/0000
---------------------------	---------------------------

Original Contract Time	SS Completion Date 00/00/0000 or SS Calendar/Work Days 0
	SP Date 00/00/0000 or SP Days
	(SS = Standard Specification, SP = Special Provision)

**Time Element Description:**

Current Time Extension	SS Days 0 SP Days 0	SP Days Value \$ 0.00
------------------------	---------------------	-----------------------

Previous Time Approved	SS Days by AE:_____ DCE:_____ SCE:_____ DDCM:_____
------------------------	--

SS Days_____	SP Days Value \$ _____
--------------	------------------------

Revised Contract Time	SS Completion Date 00/00/0000 or SS Calendar/Work Days 0
	SS Date 00/00/0000 or SP Days 0

Contract No:R -31902

Change Order No.: 021

**INDIANA Department of Transportation**  
**Construction Change Order and Time Extension Summary**

Page: 2

**Review and Approval Information**

Required Approval Authority      AE: \_\_\_\_\_ DCE: \_\_\_\_\_ SCE: \_\_\_\_\_ \* DDCM: \_\_\_\_\_ \*  
(\$ per Change Order)      (- LE \$ 250K - ) (- LE \$ 750K - ) ( - LE \$ 2 M - ) ( - GT \$ 2 M - )  
(Days per Contract)      ( 50 SS days ) ( 100 SS days ) ( 200 SS Days ) ( GT 200 SS days )

Verbal Approval Required?      Y / N If Y, by \_\_\_\_\_ Date Issued \_\_\_\_\_

Total Change To-Date > 5%?      Y / N If Y, Copy to Program Budget Manager \_\_\_\_\_

Scope/Design Recommendation      Y / N If Y, Referred to Project Manager(PM) \_\_\_\_\_  
Required?      Date to PM \_\_\_\_\_ Date Returned \_\_\_\_\_

Approval Authority Concurs with PM?      Y / N If Y, Concurrence by \_\_\_\_\_ Date \_\_\_\_\_  
If N, Resolution: Approved \_\_\_\_\_ Disapproved \_\_\_\_\_  
Resolved by \_\_\_\_\_ Date \_\_\_\_\_

LPA Signatures Required?      Y / N If Y, Date to LPA \_\_\_\_\_ Date Returned \_\_\_\_\_

FHWA Signatures Required?      Y / N If Y, Date to FHWA \_\_\_\_\_ Date Returned \_\_\_\_\_

\* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contract No:R -31902

INDIANA

Date:07/30/2020

Change Order No:021

Department of Transportation

Page: 3

Contract: R -31902  
Project: 0801059 - State:9999209  
Change Order Nbr: 021  
Change Order Description: Inlet, Reconstruct  
Reason Code: CHANGED COND, Constructability Related

CLN	PCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0252	0801059	0252	720-04499	EACH	2,651.000	1.000	C	Amount:\$ 2,651.00

Item Description: INLET RECONSTRUCT

Supplemental Description1: Inlet, Reconstruct

Supplemental Description2:

Total Value for Change Order 021 = \$ 2,651.00

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.  
General or Standard Change Order Explanation

This change order is for the reconstruction of Inlet at Nimit Dr. Inlet reconstructed due to field adjustments needed for pipe invert and pipe diameter size. Item Bid History could not be used due to not being able to obtain the minimum of 30 values. Pricing for this work has been reviewed and is acceptable for this type of extra work. No additional time will be needed to perform this additional work. The total cost will be \$2651.00.

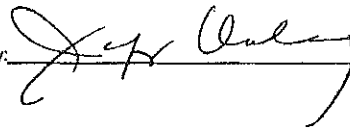
Change Order Explanation for Specific Line Item

\*\*\*\*\*  
It is the intent of the parties that this change order is full and complete compensation for the work describe above.  
Notification and consent to this change order is hereby acknowledged.

Contractor:

WEDALE BOOS. HENNING GROUP LLC

Signed By:



Date:

8-31-2020

\*\*\*\*\*  
NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No:R -31902  
Change Order No:021

INDIANA  
Department of Transportation

Date:07/30/2020  
Page: 4

APPROVED FOR LOCAL PUBLIC AGENCY

(SIGNATURE)

(TITLE)

(DATE)

(SIGNATURE)

(TITLE)

(DATE)

SUBMITTED FOR CONSIDERATION

PE/S

*[Signature]* 07/30/20

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORTATION

Approval Level	Name of Approver	Date	Status
Project Engineer/Supervisor	Wildt, Chuck	00/00/0000	Action Pending

Contract No:R -31902

Change Order No.: 022

INDIANA Department of Transportation

Page: 1

Construction Change Order and Time Extension Summary

**Contract Information**

District:SEYMOUR DISTRICT

Contract No.: R -31902

AE:Wren, Rachel

Letting Date:12/14/2016

PE/S:Lenglade, Jon

Status:Pending

**Change Order Information**

Date Generated: 00/00/0000

Change Order No.: 022

Date Approved: 00/00/0000

EWA: Y or Force Acct: N

Reason Code: CHANGED COND, Constructability Related

Description: Modified Catch Basin Type E

Original Contract Amount \$ 5,083,259.46

Current Change Order Amount \$ 3,902.00

Percent: 0.077 %

Total Previous Approved Changes \$ 560,364.52

Percent: 11.024 %

Total Change To-Date \$ 564,266.52

Percent: 11.101 %

Modified Contract Amount \$ 5,647,525.98

**Time Extension Information**

Date Initiated 00/00/0000

Date Completed 00/00/0000

Original Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SP Date 00/00/0000 or SP Days

(SS = Standard Specification, SP = Special Provision)

Time Element Description:

Current Time Extension

SS Days 0 SP Days 0 SP Days Value \$ 0.00

Previous Time Approved

SS Days by AE: \_\_\_\_\_ DCE: \_\_\_\_\_ SCE: \_\_\_\_\_ DDCM: \_\_\_\_\_

SS Days \_\_\_\_\_ SP Days Value \$ \_\_\_\_\_

Revised Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SS Date 00/00/0000 or SP Days 0

Contract No:R -31902

Change Order No.: 022

INDIANA Department of Transportation

Page: 2

Construction Change Order and Time Extension Summary

Review and Approval Information

Required Approval Authority AE:\_\_\_\_\_ DCE:\_\_\_\_\_ SCE:\_\_\_\_\_ \* DDCM:\_\_\_\_\_ \*  
(\$ per Change Order) (- LE \$ 250K-) (- LE \$ 750K - ) ( - LE \$ 2 M - ) ( -- GT \$ 2 M - )  
(Days per Contract) ( 50 SS days ) ( 100 SS days ) ( 200 SS Days ) ( GT 200 SS days)

Verbal Approval Required? Y / N If Y, by \_\_\_\_\_ Date Issued \_\_\_\_\_

Total Change To-Date>5%? Y / N If Y , Copy to Program Budget Manager \_\_\_\_\_

Scope/Design Recommendation Y / N If Y, Referred to Project Manager(PM) \_\_\_\_\_  
Required?

Date to PM \_\_\_\_\_ Date Returned \_\_\_\_\_

Approval Authority Concurs with PM? Y / N If Y, Concurrence by \_\_\_\_\_ Date \_\_\_\_\_

If N,Resolution: Approved \_\_\_\_\_ Disapproved \_\_\_\_\_

Resolved by \_\_\_\_\_ Date \_\_\_\_\_

LPA Signatures Required? Y / N If Y, Date to LPA \_\_\_\_\_ Date Returned \_\_\_\_\_

FHWA Signatures Required? Y / N If Y, Date to FHWA \_\_\_\_\_ Date Returned \_\_\_\_\_

\* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Contract No:R -31902

INDIANA

Date:07/30/2020

Change Order No:022

Department of Transportation

Page: 3

Contract: R -31902

Project: 0801059 - State:9999209

Change Order Nbr: 022

Change Order Description: Modified Catch Basin Type E

Reason Code: CHANGED COND, Constructability Related

CLN	PCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0253	0801059	0253	720-45235	EACH	3,902.000	1.000	C	Amount:\$ 3,902.00

Item Description: CATCH BASIN E7

Supplemental Description1: Modified Catch Basin Type E

Supplemental Description2:

Total Value for Change Order 022 = \$ 3,902.00

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.  
General or Standard Change Order Explanation

This change order is for the installation and modification of a Type E Inlet. Inlet was added to deflect the proposed 18 inch storm pipe connecting to curb inlet. This was needed to allow the pipe alignment to go between a utility pole and an existing sanitary sewer trunk line. The price of this change order has been reviewed and is acceptable. No additional time will be required to perform this extra work. The total cost for this change order is \$3902.00

Change Order Explanation for Specific Line Item

\*\*\*\*\*  
It is the intent of the parties that this change order is full and complete compensation for the work describe above.

Notification and consent to this change order is hereby acknowledged.

Contractor: WEDOLE Bros. Highway Group LLC

Signed By: 

Date: 8-31-2020

\*\*\*\*\*  
NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No:R -31902  
Change Order No:022

INDIANA  
Department of Transportation

Date:07/30/2020  
Page: 4

APPROVED FOR LOCAL PUBLIC AGENCY

(SIGNATURE)

(TITLE)

(DATE)

(SIGNATURE)

(TITLE)

(DATE)

SUBMITTED FOR CONSIDERATION

PEJS

*[Handwritten Signature]* 07/30/20

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORTATION

Approval Level  
Project Engineer/Supervisor

Name of Approver  
Wildt, Chuck

Date  
00/00/0000

Status  
Action Pending

MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: 9/9/2020

Item for Formal Meeting? ☒

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☐

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

Include VENDOR's Name in title if appropriate

Agreement between Monroe County Board of Commissioners and INDOT for the Bicentennial Pathway

Vendor #

If new vendor, enter 'NEW'

All Grants must complete the following

Is this a grant request? Yes ☒

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☐

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency: INDOT

Federal Program: Transportation

CFDA # 20.205

Federal Award Number and Year: FY2021

Or other identifying number

Pass Through Entity Des#0902215

Amount Received

Federal:

State: \$2,247,054.00

Local Match: \$540,208.00

Total Received: \$2,787,262.00

Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:

Fund Name: Cumulative Cap

Fund Number 1138

Amount: \$2,787,262.00

If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.

Executive Summary:

This agreement is to update the funding and date extension for the project. This project was originally created in 2009 and for the west side of the county to lead to Lake Lemon. However, the route was modified in 2016 due to the original terrain in the original alignment. The project has been modified, updated costs and being phased in. This is for Phase I which is Audobon Drive/BCL to just north of the Fire Station (fire station hill). The length of this phase is approximately 1.04 miles. The contract is updating Preliminary Engineering, Right-of-Way and Construction costs.

Person Presenting: Lisa Ridge

Department: Highway

County Legal Review required prior to submission of this form for all contracts

Attorney who reviewed: Lee Baker

Submitted by: Lisa Ridge

Date: September 1, 2020

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's

Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)

INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY PROJECT  
COORDINATION CONTRACT

AMENDMENT NUMBER 3

EDS No.: A249-18-L170064

CFDA #: 20.205

This Amendment, is made and entered into effective as of the date of the Indiana Attorney General signature affixed to this Amendment, by and between the Indiana Department of Transportation, (hereinafter referred to as "INDOT"), and Monroe County (hereinafter referred to as "LPA").

WITNESSETH

WHEREAS, INDOT and the LPA did, on 02/04/2010, enter into a Contract (shown as Exhibit A), and did on 03/08/2014 enter into Amendment Number 1 (shown as Exhibit B), and did on 09/15/2017 enter into a New Contract (shown as Exhibit C) providing for Services required in connection with INDOT Designation Number 0902215 for Bicentennial Trail- Phase 1 (Previously Unionville Trail) and,

WHEREAS, it has been determined by INDOT that an amendment of the previously executed INDOT/LPA Contract for Services is necessary due to a change in the Federal aid Project, and

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

The "Recitals" above are hereby made an integral part of and specifically incorporated into this Contract Amendment Number 3.

1. Section V – TERM AND SCHEDULE of the original Contract is amended to read as follows:

SECTION V TERM AND SCHEDULE.

- A. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract), between July 1, 2020 and June 30, 2021, INDOT will make the federal funds shown in section I.A. and/or I.B. of Attachment D available for the Project, provided the Project is eligible, and provided the federal funds shown in section I.B. of Attachment D are available.
- B. In the event that federal funds for the Project are not obligated during the time listed in section V.A, but the LPA has the plans, special provisions, and cost estimate for the Project ready such that federal funds can be obligated between July 1, 2021 and June 30, 2023, INDOT will schedule the contract for letting, provided the Project is eligible, and provided the federal funds shown in section I.B of Attachment D are available.
- C. In the event that federal funds for the Project are not obligated during the period listed in section V.A. or section V.B, the federal funds allocated to the Project may be obligated in the fiscal year chosen by INDOT or the federal funds allocated to the Project will lapse.

- D. If the Program shown on Attachment A is Group I or Group II, Sections V.A, V.B and V.C do not apply, but will be obligated according to the fiscal year programmed in the most current MPO TIP, provided the MPO funding is within their fiscal year allocation or within the agreed upon use of the MPO's prior year balances.
2. Section VI – GENERAL PROVISIONS of the original Contract is amended to read as follows:

## **SECTION VI      GENERAL PROVISIONS**

- A. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- B. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
- C. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State. The State considers the LPA to be a "sub-recipient" for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract.

For audits conducted pursuant to Indiana Code 5-11-1, and audited by the Indiana State Board of Accounts on the time schedule set forth by the Indiana State Board of Accounts, the LPA shall provide to the Indiana State Board of Accounts, all requested documentation necessary to audit the Local Public Agency in its entirety.

If the audit is conducted by an independent public or certified public account and not the Indiana State Board of Accounts, the LPA shall submit the completed audit to the Indiana State Board of Accounts within 10 (ten) days of the completion of the audit.

The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State.

**D. Authority to Bind LPA.** The signatory for the LPA represents that he/she has been duly authorized to execute this Agreement on behalf of the LPA, and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the LPA when his/her signature is affixed and accepted by the State.

**E. Certification for Federal-Aid Contracts Lobbying Activities.** The LPA certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the LPA, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.
3. The LPA also agrees by signing this Agreement that it shall require that the language of this certification be included in all contractor agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

**F. Compliance with Laws.**

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Agreement shall be reviewed by INDOT and the LPA to determine whether the provisions of this Agreement require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with



provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total.”

4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the LPA has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, the LPA shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Agreement.** If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General’s website at <http://www.in.gov/ig/>. If the LPA or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
5. The LPA warrants that the LPA and its contractors shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this Agreement. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.
6. As required by IC §5-22-3-7:
  - (1) The LPA and any principals of the LPA certify that:
    - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
      - i. IC §24-4.7 [Telephone Solicitation Of Consumers];
      - ii. IC §24-5-12 [Telephone Solicitations]; or
      - iii. IC §24-5-14 [Regulation of Automatic Dialing Machines];
 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
    - (B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.
  - (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,
    - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
    - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

**G. Debarment and Suspension.**

1. The LPA certifies by entering into this Agreement that neither it nor its principals nor any of its contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the LPA.
2. The LPA certifies that it will verify the state and federal suspension and debarment status for all contractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The LPA shall immediately notify INDOT if any contractor becomes debarred or suspended, and shall, at INDOT's request, take all steps required by INDOT to terminate its contractual relationship with the contractor for work to be performed under this Agreement.

**H. Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

**I. Disputes.**

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.

3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the PARTIES have ten (10) working days, unless the PARTIES mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The PARTIES agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the PARTIES concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

- J. **Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

1. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

3. Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
4. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
5. Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.

**K. Employment Eligibility Verification.**

The LPA affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien. The LPA further agrees that:

1. The LPA shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and do not employee any employees.
2. The LPA shall not knowingly employ or contract with an unauthorized alien. The LPA shall not retain an employee or contract with a person that the LPA subsequently learns is an unauthorized alien.
3. The LPA shall require its contractors, who perform work under this Contract, to certify to the LPA that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The LPA agrees to maintain this certification throughout the duration of the term of a contract with a contractor.

The State may terminate for default if the LPA fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

- L. **Force Majeure.** In the event that any Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a "Force Majeure Event"), the Party who has been so affected shall immediately or as soon as reasonably possible under the circumstances give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party

whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

- M. **Funding Cancellation Clause.** As required by Financial Management Circular 2007-1 and IC 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Agreement, this Agreement shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- N. **Governing Laws.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.
- O. **Indemnification.** The LPA agrees to indemnify, defend, exculpate, and hold harmless the State of Indiana, and INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:
- (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
  - (b) of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
  - (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
  - (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in connection herewith in the event that the LPA shall default under the provisions of this section.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in asserting successfully a claim against the LPA for indemnity pursuant to this contract.

P. **Merger & Modification.** This Agreement constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary PARTIES.

Q. **Non-Discrimination.**

1. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The LPA certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this covenant may be regarded as a material breach of this Agreement, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.

2. INDOT is a recipient of federal funds, and therefore, where applicable, the LPA and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, limited English proficiency, or status as a veteran).

3. During the performance of this Agreement, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

- a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: The LPA, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
- d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Agreement, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Agreement until the LPA complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is



threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- R. **Payment.** All payments (if any) shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC §4-13-2-20.
- S. **Penalties, Interest and Attorney's Fees.** INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

- T. **Pollution Control Requirements.** If this Agreement is for \$100,000 or more, the LPA:
1. Stipulates any facility to be utilized in performance under or to benefit from this Agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
  2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
  3. Stipulates, as a condition of federal aid pursuant to this Agreement, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.
- U. **Severability.** The invalidity of any section, subsection, clause or provision of the Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Agreement.
- V. **Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel  
Indiana Department of Transportation  
100 North Senate Avenue, Room N758  
Indianapolis, Indiana 46204-2249

3. Section I.C. of Attachment "D" of the original Contract is amended to read as follows:
  - C. Federal-aid Funds made available to the LPA by INDOT will be used to pay 80% of the eligible Project costs. The maximum amount of federal funds allocated to the Preliminary Engineering portion of the project is \$224,882.00. The maximum amount of federal funds allocated to the Right-of-Way portion of the project is \$251,732.00. The maximum amount of federal funds allocated to Construction is \$1,770,440.00.
4. All other matters previously agreed to and set forth in the original Contract dated 03/08/2010 and not affected by this Amendment shall remain in full force and effect.

The remainder of this page is intentionally left blank.

**Non-Collusion**

The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.

In Witness Whereof, LPA and the State of Indiana have, through duly authorized representatives, entered into this Contract. The PARTIES having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

LPA: Monroe CountySTATE OF INDIANA  
Department of Transportation

Executed by:

\_\_\_\_\_  
Print or type name and title

(FOR)

\_\_\_\_\_  
Joseph McGuinness, Commissioner\_\_\_\_\_  
Signature and date

Date: \_\_\_\_\_

\_\_\_\_\_  
Print or type name and title

Department of Administration

\_\_\_\_\_  
Signature and date\_\_\_\_\_  
Lesley A. Crane, Commissioner\_\_\_\_\_  
Print or type name and title

Date: \_\_\_\_\_

State Budget Agency

\_\_\_\_\_  
Signature and date\_\_\_\_\_  
Zachary Q. Jackson, Director

Date: \_\_\_\_\_

LPA DUNS # \_\_\_\_\_

Approved as to Form and Legality:

Attest

(FOR)

\_\_\_\_\_  
Curtis T. Hill Jr., Attorney General of Indiana\_\_\_\_\_  
Auditor or Clerk Treasurer Signature and Date

This instrument prepared by:

Cassandra Hudson08/27/2020

# EXHIBIT A

Version 6-10-09

## INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY PROJECT COORDINATION CONTRACT

EDS # A249-10-320950

Des. No. 0902215

This Contract is made and entered into February 4, 2010, by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as INDOT), and the Monroe County, a local public agency in the State of Indiana (hereinafter referred to as the LPA), and collectively referred to as the PARTIES.

### NOTICE TO PARTIES

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following address, unless otherwise specifically advised.

A. Notice to INDOT, regarding contract provisions shall be sent to:

Local Programs Division  
Attention: LPA Manager  
100 North Senate Avenue, Room N955  
Indianapolis, Indiana 46204

B. Notices to INDOT regarding project management shall be sent to respective District Office:

Mr. Steven Flores  
INDOT Seymour District  
185 Agricola Lane  
Seymour, Indiana 47274

C. Notices to the LPA shall be sent to:

Monroe County Board of Commissioners  
Courthouse, Room 322  
Bloomington, Indiana 47404

### RECITALS

WHEREAS, LPA has applied to INDOT, and INDOT has approved the LPA's application to receive federal funds for the Project described in Attachment A, and

WHEREAS, LPA agrees to pay its share of the Project cost as stated in this Contract, and

WHEREAS, the PARTIES desire to contract on certain project description, scheduling, and funding allocation, and

WHEREAS, the PARTIES have determined the Project, is in the best interests of the citizens of the State of Indiana, and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations, and

WHEREAS, the LPA desires to expedite delivery of the Project, comply with all Federal requirements and fiscally manage the Project, and

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

The "Recitals" and "Notice to Parties" above are hereby made an integral part and specifically incorporated into this Contract.

**SECTION I PROJECT DESCRIPTION.** INDOT and the LPA enter into this Contract to complete the project described in Attachment A (the "Project"), herein attached to and made an integral part of this Contract.

**SECTION II LPA RESPONSIBILITIES.** The LPA will provide the information and services, or shall cause the information and services to be provided, as set out in Attachment B (LPA's Rights and Duties), herein attached to and made an integral part of this Contract. The LPA will follow all applicable INDOT procedures, guidelines, manuals, standards, specifications and directives.

**SECTION III INDOT RESPONSIBILITIES.** INDOT will provide the information and services as set out in Attachment C (INDOT's Rights and Duties), herein attached to and made an integral part of this Contract.

**SECTION IV PROJECT FUNDS.** INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. Payment will be made for the services performed under this Contract in accordance with Attachment D (Project Funds), which is attached to and made an integral part of this Contract.

**SECTION V TERM AND SCHEDULE**

- A. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract.) between October 1, 2012 and September 30, 2013, INDOT will make the federal funds shown in section LB of Attachment D available for the Project, provided the Project is eligible.
- B. In the event that federal funds for the Project are not obligated during the time listed in section V.A, but the LPA has the plans, special provisions, and cost estimate for the Project ready such that federal funds can be obligated between October 1, 2013 and September 30, 2015, INDOT will schedule the contract for letting, provided the federal funds shown in section LB of Attachment D are available.
- C. In the event that federal funds for the Project are not obligated during the period listed in section V.A or section V.B, the LPA may (1) request INDOT's approval to transfer the federal funds to another eligible project or (2) in extenuating circumstances, submit a written request to INDOT at least 90 days before the last date listed in section V.B and

request that the dates in sections V.A and V.B be modified; otherwise, the federal funds allocated to the Project will lapse.

- D. If the Program shown on Attachment A is Group I or Group II, Sections V.A, V.B, and V.C do not apply.

## SECTION VI      GENERAL PROVISIONS

- A. Access to Records. The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- B. Audit. The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.
- C. Certification for Federal-Aid Contracts Lobbying Activities. The LPA certifies, by signing and submitting this Contract, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.
  3. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

D. Compliance with Laws.

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, *et seq.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<[<http://www.in.gov/ethics/>](http://www.in.gov/ethics/)>>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44-1-3 and under any other applicable State or Federal laws.
5. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.
6. As required by I.C. 5-22-3-7: (1) the LPA and any officials of the LPA certify that (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of (i) I.C. 24-4-7 [Telephone Solicitation Of Consumers], (ii) I.C. 24-5-12 [Telephone Solicitations], or (iii) I.C. 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if I.C. 24-4-7 is preempted by Federal law; and (B) the LPA will not violate the terms of I.C. 24-4-7 for the duration of the Contract, even if I.C. 24-4-7 is preempted by Federal law. (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA: (A) except for de minimis and nonsystematic violations, has not violated the terms of I.C. 24-4-7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4-7 is preempted by Federal law; and (B) will not violate the terms of I.C. 24-4-7 for the duration of the Contract, even if I.C. 24-4-7 is preempted by Federal law.

- II. Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

**F. Disputes.**

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to not immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.
3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The parties agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.



5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

- G. **Drug-Free Workplace Certification.** The LPA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it shall give written notice to the INDOT and the IDOA within ten (10) days after receiving actual notice that an employee of the LPA in the State of Indiana has been convicted of a criminal drug violation occurring in the LPA's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of the Contract and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Contract amount set forth in this Contract is in excess of \$25,000, LPA hereby further agrees that this Contract is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the IDOA is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid, unless and until this certification has been fully executed by the LPA and made a part of the contract or agreement as part of the contract documents.

The LPA certifies and agrees it shall provide a drug-free workplace by:

1. Publishing and providing to all of its employees a Statement notifying their employees the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the LPA's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
2. Establishing a drug-free awareness program to inform their employees of (1) the dangers of drug abuse in the workplace; (2) the LPA's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties which may be imposed upon an employee for drug abuse violations occurring in the workplace.
3. Notifying all employees in the Statement required by subparagraph (1) above as a condition of continued employment the employee shall (1) abide by the terms of the Statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
4. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
5. Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation

program approved for such purposes by a Federal, State or Local health, law enforcement, or other appropriate agency; and

6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above,

H. Force Majeure. In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract,

I. Funding Cancellation Clause. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

J. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

K. Indemnification. The LPA agrees to indemnify, defend, exonerate, and hold harmless the State of Indiana, INDOT, and their officials and employees from any claims and suits including court costs, attorneys fees, and other expenses caused by any act or omission of the LPA and/or its subcontractors in the performance of this Contract or any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whomsoever caused, to the person or property of anyone on or off the Project arising out of, or resulting from the work covered by this Contract or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or material. The LPA agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State and INDOT in connection herewith in the event the LPA shall default under the provisions of this Section. INDOT shall not provide such indemnification to the LPA. Notwithstanding the preceding provisions of this Section, the obligation of the LPA to indemnify, and hold harmless shall only arise if the LPA also would be liable under I.C. 34-13-3. Further the liability of the LPA shall be limited by the provisions of I.C. 34-13-3-4.

L. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

M. Non-Discrimination.

1. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the LPA, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, 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 status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this

Contract also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

2. The LPA understands that INDOT is a recipient of Federal Funds. Pursuant to that understanding, the LPA, agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.
3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
  - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
  - b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
  - c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
  - d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
  - e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of

Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.

- f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- N. Payment. All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- O. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.
- P. Pollution Control Requirements. If this Contract is for \$100,000 or more, the LPA:
1. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
  2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
  3. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.
- Q. Severability. The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.

R.

Status of Claims. The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

- Chief Counsel  
Indiana Department of Transportation  
100 North Senate Avenue, Room N758  
Indianapolis, IN 46204-2249

Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, LPA and the State of Indiana have, through duly authorized representatives, entered into this Contract. The parties having read and understand the foregoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

**MONROE COUNTY BOARD OF  
COMMISSIONERS**

Patrick Stoffers, President

Print or type name and title

Signature and date

Eris F. Kiesling, Vice President

Print or type name and title

Signature and date

Mark Stoops, Member

Print or type name and title

Signature and date

Attest:

Andlor or Clerk Treasurer

This Instrument prepared by:

Brenda E. Fox  
November 13, 2009

**STATE OF INDIANA**

Department of Transportation

Recommended for approval by:

Robert D. Cales, Director

Contract Administration Division

Date: 2/3/10

Executed by:

Michael W. Reed, Commissioner

Date: 2/16/10

Department of Administration

Mark W. Byers, Commissioner

Date: 2/16/10

State Budget Agency

Christopher A. Rubl, Director

Date: 2/11/10

Approved as to Form and Legality:

Gregory F. Zoeller, Attorney General of Indiana (FOR)

Date: 2/17/10

ATTACHMENT A  
PROJECT DESCRIPTION

Des. No.: 0902215  
Program: Local Transportation Enhancement  
Type of Project: Bike/Pedestrian Facilities  
Location: Unionville Rail Trail - Phase 1

A general description of the Project is as follows:

Unionville Rail Trail - Phase 1 in Monroe County, Indiana

## ATTACHMENT B

## LPA'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law, regulations, rules, policies or procedures, or described elsewhere in this Contract, the following are the LPA's rights and duties under this Contract for the Project.

1. The LPA has requested and intends to use federal funds to partially pay for the Project. The LPA asserts that the LPA has completed or will complete the Project in accordance with INDOT's Design Manual (See <http://www.in.gov/dot/dlv/contracts/standards/dm.html>) and all pertinent state and federal laws, regulations, policies and guidance. The LPA or its consultant shall prepare the environmental document(s) for the Project in accordance with INDOT's Environmental Manual (See <http://www.in.gov/indot/7287.htm>). Land acquisition for the Project by the LPA or its consultant shall be in accordance with INDOT's Real Estate Manuals (See <http://www.in.gov/indot/3318.htm>).
2. The LPA acknowledges that in order for the cost of consultant services to be eligible for federal funds or federal credits, the consultant selection must be in accordance with INDOT's consultant selection procedure or INDOT's Alternative Architectural and Engineering Firm Selection Process for Local Public Agencies (See <http://www.in.gov/dot/dlv/legal/rfp/LPASection/Information/consultantselection/Alternative%20INDOT%20LPA%20Consultant%20Selection%204-30-07.pdf>).
3. **REQUIREMENTS FOR ADDITIONAL CONTRACTS**
  - A. If the LPA wishes to contract with a consultant, contractor or other agent to complete work on the Project, LPA may:
    1. use the "LPA-CONSULTANT Agreement", which is found at <http://www.in.gov/indot/dlv/projects/LPASession/> and is incorporated by reference; or
    2. use a form of agreement that has been reviewed and approved by INDOT.
4. The LPA agrees to provide all relevant documents including, but not limited to, all plans, specifications and special provisions, to INDOT for review and approval, and such approval will not be unreasonably withheld. If INDOT does not approve an LPA submittal, the LPA shall cause the submittal to be modified in order to secure INDOT's approval. The LPA understands that if it fails to provide a submittal, submits it late, or the submittal is not approvable, the schedule, cost, and federal funds for the Project may be jeopardized.
5. The LPA agrees to complete all right-of-way acquisition, utility coordination and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
6. At least sixty (60) calendar days prior to INDOT's scheduled construction letting for the project, the LPA will submit to INDOT documentation of the LPA's fiscal body's resolution or other official action irrevocably committing the LPA to fund the LPA's cost of the Project as described in Attachment D.



7. If the LPA has failed to meet any of the requirements of sections 1, 2, 4, 5, or 6 above, INDOT will not let the construction project. If INDOT, and FHWA, where necessary, approve LPA's submittals, INDOT shall schedule the Project for letting at the next reasonable date.
8. The LPA shall pay the cost as described in Attachment D within thirty (30) calendar days of INDOT's award of the construction contract.
9. The LPA understands time is of the essence regarding the Project timeline and payment of costs by the LPA. Delays in payment may cause substantial time delays and/or increased costs for the Project. If the LPA has not paid the full amount of the amount billed by INDOT, in accordance with Attachment D, within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this contract including the contracts listed in II.A.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
10. The LPA shall also be responsible for all costs associated with additional provisions and/or expenses in excess of the federal funds allocated to the project. The LPA, in conjunction with FHWA (if applicable) and INDOT, shall review and approve all change orders, and such approvals shall not be unreasonably withheld.
11. The LPA shall provide competent and adequate engineering, testing, and inspection services to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this section are deemed to be incompetent or inadequate or are otherwise insufficient or if a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the services or replace the engineers or inspectors providing those services at the sole expense of the LPA.
  - A. If project inspection will be provided by LPA employees:  
The personnel must be employees of the LPA. Temporary employment or retainer-based payments are not permissible. INDOT must pre-approve, in writing, the LPA's personnel. Only costs incurred after INDOT's written notice to proceed to the LPA shall be eligible for federal-aid participation. All claims for federal-aid shall be submitted to the District office, referenced on page 1, for payment.
  - or
  - B. If project inspection will be provided by the LPA's consultant:  
INDOT must approve, in writing, the consultant personnel prior to their assignment to the project. The LPA shall execute a contract with a consultant setting forth the scope of work and fees. The LPA shall submit this contract to INDOT prior to INDOT's construction letting for the Project. Only costs incurred after INDOT's written notice to proceed to the LPA and the LPA's written notice to proceed to the consultant shall be eligible for federal aid participation. All claims for federal-aid shall be submitted to the District office, referenced on page 1, for payment.

12. The LPA shall submit reports to INDOT regarding the project's progress and the performance of work per INDOT standard reporting methods.
13. The LPA hereby agrees that all utilities which cross or otherwise occupy the right-of-way of said Project shall be regulated on a continuing basis by the LPA in accordance with INDOT's Utility Accommodation Policy (See <http://www.in.gov/indot/files/UtilityProAccPolicy.pdf>). The LPA shall execute written use and occupancy contracts as defined in this Policy.
14. If FHWA or INDOT invokes sanctions per Section VI.D.2, or otherwise denies or withholds federal funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:
  - a. In the case of correctable noncompliance, the LPA shall make the corrections, to the satisfaction of FHWA and INDOT, in a reasonable amount of time. If the LPA fails to do so, paragraph 14.b and/or 14.c below, as applicable, shall apply.
  - b. In case a citation for noncompliance is not correctable or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA and INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, this paragraph shall apply and adjustments shall be made as follows:
    1. The LPA shall reimburse INDOT the total amount of all right-of-way costs that are subject to FHWA citation that have been paid by INDOT to the LPA.
    2. If no right-of-way costs have as yet been paid by INDOT to the LPA or to others, INDOT will not pay any right-of-way claim or billing that is subject to FHWA citation.
    3. The LPA agrees that it is not entitled to bill INDOT or to be reimbursed for any of its right-of-way liabilities or costs that are subject to any FHWA citation in force.
  - c. If FHWA issues a citation denying or withholding all or any part of construction costs due to LPA noncompliance with right-of-way requirements, and construction work was or is in progress, the following shall apply:
    1. INDOT may elect to terminate, suspend, or continue construction work in accord with the provisions of the construction contract.
    2. INDOT may elect to pay its obligations under the provisions of the construction contract.
    3. In the case of correctable noncompliance, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of FHWA and INDOT.

4. In case the noncompliance is not correctable, or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA or INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA agrees to reimburse INDOT the full amount it paid for said construction work, less the amount of federal funds allowed by FHWA.
- d. In any case, the LPA shall reimburse INDOT the total cost of the Project, not eligible for federal participation.
- e. If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or any other entity through INDOT under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within forty-five (45) days after receipt of a billing from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for federal funding shall be the sole obligation of the LPA.

## ATTACHMENT C

## INDOT'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law or regulations or described elsewhere in this Contract, the following are INDOT's rights and duties under the Contract:

1. INDOT shall have full authority and access to inspect and approve all plans, specifications and special provisions for the Project regardless of when those plans, specifications, special provisions or other such Project documents were created.
2. INDOT shall complete all railroad coordination for the Project on behalf of the LPA.
3. After the LPA has submitted and INDOT has accepted and/or approved all pre-letting documents, INDOT will prepare the Engineer's Estimate for construction of the Project.
4. If the LPA owes INDOT money which is more than 60 days past due, INDOT will not open the construction bids for the Project.
5. Not later than sixty (60) calendar days after receipt by INDOT of a certified copy of a resolution from the LPA's fiscal body authorizing the LPA to make payment to INDOT according to the terms of Attachment D, and fulfillment of all other pre-letting obligations of this contract, INDOT shall, in accordance with applicable laws and rules (including I.C. 8-23-9, I.C. 8-23-10, and I.C. 10-51A.C. 11), conduct a scheduled letting.
6. Subject to the LPA's written approval, INDOT shall award the construction contract for the Project according to applicable laws and rules.
7. Not later than seven (7) calendar days after INDOT awards the construction contract described above, INDOT shall invoice the LPA for the LPA's share of the construction cost.
8. If INDOT has received the LPA's share of the Project construction cost and if the lowest qualified bidder has not otherwise been disqualified, INDOT shall issue notice to proceed for the Project to the contractor within fourteen (14) calendar days of its receipt of the LPA share of the construction cost.
9. INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.
10. In the event the engineering, testing, and inspection services provided by the LPA, in the opinion of INDOT, are deemed to be incompetent or inadequate or are otherwise insufficient or a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the engineering, testing, and inspection forces or to replace engineers or inspectors employed in such work at the expense of the LPA. INDOT's engineers shall control the work the same as on other federal aid construction contracts.
11. After the final Project audit is approved by INDOT, the LPA shall, within forty-five (45) days after receipt of INDOT's bill, make final payment to INDOT pursuant to Attachment D or INDOT shall, within forty-five (45) days after approval of the audit, refund any Project overpayment to the LPA.

ATTACHMENT D

PROJECT FUNDS

I. Project Costs.

- A. If the Program shown on Attachment A is Group I or Group II, this contract is just for the one (1) phase checked below:

☐ Preliminary engineering or  
☐ Right-of-way or  
☐ Construction;

otherwise this contract covers all phases.

- B. (1) If the Program shown on Attachment A is Group III, Group IV, or Local Bridge, the LPA will not receive federal funds as the work is completed during the preliminary engineering and right-of-way phases; instead the LPA will accrue federal credits equal to 80% of eligible costs but not to exceed 10% of the final cost of the construction phase (construction and construction inspection) of the Project, provided the LPA complies with all federal and state laws, regulations and rules regarding such services, including consultant selection(s) and procurement of right-of-way. Federal funds, made available to the LPA by INDOT, will be used to pay 80% of the eligible Project construction cost. Accrued federal credits may be used to pay up to 10% of the final cost of the construction phase (construction and construction inspection) of the Project. The maximum amount of federal funds, including federal credits, allocated to the Project is \$ \_\_\_\_\_.

OR

- (2) If the Program shown on Attachment A is receiving federal funds for all phases, federal funds made available to the LPA by INDOT, will be used to pay 80% of the eligible Project costs. The maximum amount of federal funds allocated to the Project is \$ 525,000.00.

OR

- (3) If the Program shown on Attachment A is Transportation Enhancement (with federal credits), the LPA will not receive federal funds as the work is completed during the preliminary engineering and right-of-way phases; instead the LPA will accrue federal credits equal to 80% of eligible costs but not to exceed 20% of the final cost of the construction phase (construction and construction inspection) of the Project, provided the LPA complies with all federal and state laws, regulations, and rules regarding such services, including consultant selection(s) and procurement of right-of-way. Federal funds, made available to the LPA by INDOT, will be used to pay 80% of the eligible Project construction cost. Accrued federal credits may be used to pay up to 20% of the final cost of the construction phase (construction and construction inspection) of the Project. The maximum amount of federal funds, including federal credits, allocated to the Project is \$ \_\_\_\_\_.

OR

Attachment D, Page 1 of 3

(4) If the Program shown on Attachment A is Safety, Safe Routes to Schools, Forest Highway, National Historic Covered Bridge, Transportation Community System Preservation, or Demonstration, federal funds, made available to the LPA by INDOT, will be used to pay \_\_\_\_\_% of the eligible Project costs. The maximum amount of federal funds allocated to the Project is \$\_\_\_\_\_.

C. The LPA understands and agrees that federal reimbursement for construction inspection and testing construction materials is limited to:

- (1) 17% of the final construction cost if the final construction cost is less than or equal to \$500,000; or
- (2) 15% of the final construction cost if the final construction cost is greater than \$500,000.

D. The remainder of the Project cost shall be borne by the LPA. For the avoidance of doubt, INDOT shall not pay for any costs relating to the Project unless the parties have agreed in a document (which specifically references section 1.D of Attachment D of this contract) signed by an authorized representative of INDOT, the Indiana Department of Administration, State Budget Agency, and the Attorney General of Indiana.

E. Costs will be eligible for FHWA participation provided that the costs:

- (1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
- (2) Are verifiable from INDOT's or the LPA's records;
- (3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR section 18.22;
- (4) Are included in the approved budget, or amendment thereto; and
- (5) Were not incurred prior to FHWA authorization.

## II. Billings.

### A. Billing:

1. When INDOT awards and enters into a contract (i.e., construction, utility, and/or railroad) on behalf of the LPA, INDOT will invoice the LPA for its share of the costs. The LPA shall pay the invoice within thirty (30) calendar days from date of INDOT's billing.
2. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.



3. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.

B. Other Costs:

1. In accordance with I.C. 8-23-2-14, the LPA shall pay INDOT the actual cost, less the amount eligible for Federal-aid reimbursement, for performing laboratory testing of materials. The cost of providing material testing is included in the maximum limitation number shown in section I.C of Attachment D.
2. The LPA shall pay INDOT for expenses incurred in performing the final audit less the amount eligible for Federal-aid reimbursement.
3. The LPA shall pay INDOT for expenses incurred in supervising the Project out of the maximum limitation shown in section I.C of Attachment D.

III. Repayment Provisions.

If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or on behalf of the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within thirty (30) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.

# EXHIBIT B

Version 5-7-2013

## INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY PROJECT COORDINATION CONTRACT

### SUPPLEMENT NUMBER 1

EDS No.: A249-10-320950

CFDA #: 20.205

This Supplemental Contract, is made and entered into effective as of the date of the Indiana Attorney General signature affixed to this Supplemental Contract, by and between the Indiana Department of Transportation, (hereinafter referred to as "INDOT"), and Monroe County, (hereinafter referred to as "LPA").

### WITNESSETH

WHEREAS, INDOT and the LPA did, on February 4, 2010, enter into a Contract, providing for Services required in connection with INDOT Designation Number 0902215 for the Unionville Rail Trail - Phase I and

WHEREAS, it has been determined by INDOT that a supplement of the previously executed INDOT/LPA Contract for Services is necessary due to a change in the amount of Federal aid allocated to the Project, and

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

The "Recitals" above are hereby made an integral part of and specifically incorporated into this Contract Supplement Number 1.

1. Section V - TERM AND SCHEDULE of the original Contract is amended to read as follows:

### SECTION V. TERM AND SCHEDULE

- A. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract) between July 1, 2015 and March 31, 2016, INDOT will make the federal funds shown in section I.A. and/or I.B. of Attachment D available for the Project, provided the Project is eligible and provided the LPA has paid their portion of the Project within three weeks of receiving the invoice.
- B. In the event that federal funds for the Project are not obligated during the period listed in section V.A., the federal funds allocated to the Project will lapse.

Version 5-7-2013

2. Section I.B (2) of Attachment "D" of the original Contract is amended to read as follows:

If the Program shown on Attachment A is receiving federal funds for all phases, federal funds made available to the LPA by INDOT, will be used to pay 80% of the eligible Project costs. The maximum amount of federal funds allocated to the Project is \$ 2,139,040.00.

3. All other matters previously agreed to and set forth in the original Contract dated February 4, 2010 and not affected by this Supplement shall remain in full force and effect.

The remainder of this page is intentionally left blank.

Version 5-7-2013

Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. In Witness Whereof, LPA and the State of Indiana have, through duly authorized representatives, entered into this Contract. The parties having read and understand the foregoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

LPA Monroe County Board of Commissioners STATE OF INDIANA

Patrick Stafford, President

Type or print name

January 24, 2014

Signature and date

Iris Kiesling, Vice-President

Type or print name

January 24, 2014

Signature and date

Julie Thomas

Type or print name

January 24, 2014

Signature and date

Attest: Steve Sauter

Steve Sauter, etc.

Monroe County Auditor

Date: January 24, 2014

Department of Transportation

Robert D. Calos, Director

Contract Administration Division

Date: 2/10/2014

Executed by:

Troy A. Woodruff, Chief of Staff

Department of Administration

Jesslyn Robertson, Commissioner

Date: 1/14/14

State Budget Agency

Brian E. Bailey, Director

Date: 2-21-14

Approved as to Form and Legality:

Gregory F. Zoeller, Attorney General of Indiana (FOR)

Date: 3/8/14

This instrument prepared by:

Ellen Filto

Date: January 15, 2014

# Exhibit C

Version 4/18/2017

## INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY UPDATED PROJECT COORDINATION CONTRACT

EDS #: A249-18-L170064

Dns. No.: 0902215

CFDA No.: 20.205

This Contract is made and entered into effective as of the date of the Indiana Attorney General signature affixed to this Contract, by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as INDOT), and Monroe County, a local public agency in the State of Indiana (hereinafter referred to as the LPA), and collectively referred to as the PARTIES.

### NOTICE TO PARTIES

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following address, unless otherwise specifically advised.

A. Notice to INDOT, regarding contract provisions shall be sent to:

Office of LPA and Grant Administration  
Attention: Director of LPA and Grant Administration  
100 North Senate Avenue, Room N955  
Indianapolis, Indiana 46204

With a copy to:

Chief Legal Counsel and Deputy Commissioner  
Indiana Department of Transportation  
100 North Senate Avenue, Room N758  
Indianapolis, Indiana 46204

B. Notices to INDOT regarding project management shall be sent to respective District Office:

Seymour District Office  
185 Agrico Lane  
Seymour, Indiana 47274

C. Notices to the LPA shall be sent to:

Monroe County Board of Commissioners  
100 West Kirkwood Avenue  
Bloomington, Indiana 47404

### RECITALS

WHEREAS, the PARTIES had previously entered into an Agreement, which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, changes were made to the federal aid Project, the PARTIES entered into a Supplemental Contract, entitled Supplement Number 1, (hereinafter referred to as "Supplement") to the original Contract, which is attached hereto as Exhibit B, and incorporated herein by reference; and

Page 1 of 11

WHEREAS, the Agreement has expired, but the project referenced in Exhibit A and Exhibit B has not yet been completed, and the PARTIES believe it is in the best interests of the citizens of the State of Indiana to complete the project; and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations, and

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

SECTION I. PREAMBLE. The Preamble, Notice and Recitals recorded above are incorporated by reference into this Contract. All captions, section headings, paragraph titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the interpretation of this Contract.

SECTION II. PURPOSE. The purpose of this Contract is to complete the project, for which it was contracted in Exhibit A. Except for those terms provided for in this Contract, the terms and provisions in Exhibit A and Exhibit B are incorporated herein by reference.

SECTION III. PROJECT FUNDS. INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. PARTIES acknowledge that obligations in the amount of \$ 124,000.00 have been made toward completion of the project. Additional federal funds in the amount of \$ 320.00 have been allocated to the Project since the execution of the original LPA contract (which is attached as Exhibit A) and Supplement 1 (which is attached as Exhibit B). The current maximum amount of federal funds allocated to the Project is \$ 2,139,360.00. The remaining balance of the federal fund allocation for the Project is \$ 2,015,360.00, which shall be made in accordance with Section V.P. for the completion of the project.

SECTION IV. TERM. The term of this Contract shall commence on March 31, 2016 and terminate on June 30, 2022, unless otherwise terminated under the provisions of this Contract.

SECTION V. GENERAL PROVISIONS

- A. Access to Records. The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- B. Assignment of Antitrust Claims. As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may



acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

- C. Audits. The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the LPA to be a "sub-recipient" for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract.

For audits conducted pursuant to Indiana Code 5-11-1, and audited by the Indiana State Board of Accounts on the time schedule set forth by the Indiana State Board of Accounts, the LPA shall provide to the Indiana State Board of Accounts, all requested documentation necessary to audit the Local Public Agency in its entirety.

If the audit is conducted by an independent public or certified public account and not the Indiana State Board of Accounts, the LPA shall submit the completed audit to the Indiana State Board of Accounts within 10 (ten) days of the completion of the audit.

The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State.

- D. Certification for Federal-Aid Contracts Lobbying Activities. The LPA certifies, by signing and submitting this Contract, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.

3. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

**E. Compliance with Laws.**

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, *et seq.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ig/>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44, 1-1-4 and under any other applicable State or Federal laws.
5. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.
6. As required by I.C. 5-22-3-7:
  - (1) The LPA and any officials of the LPA certify that:
    - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
      - (i) IC §24-4-7 [Telephone Solicitation Of Consumers];
      - (ii) IC §24-5-12 [Telephone Solicitations]; or
      - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines]; in the previous three hundred sixty-five (365) days, even if IC §24-4-7 is preempted by federal law; and

(B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

**F. Debarment and Suspension.**

1. The LPA certifies by entering into this Contract that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, key employee or other person with primary management or supervisory responsibilities, or a person who has critical influence on or substantive control over the operations of the LPA.

2. The LPA certifies that it will verify the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The LPA shall immediately notify INDOT if any subcontractor becomes debarred or suspended, and shall, at INDOT's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**G. Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

**H. Disputes.**

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.
3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the PARTIES have ten (10) working days, unless the PARTIES mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The PARTIES agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the PARTIES concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

- I. Drug-Free Workplace Certification. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

1. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the

penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

3. Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
  4. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
  5. Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
  6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.
- J. Force Majeure. In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.
- K. Funding Cancellation Clause. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- L. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- M. Indemnification. The LPA agrees to and shall indemnify, defend, exonerate, and hold harmless the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:
- (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;

- (b) of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
- (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
- (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in connection herewith in the event that the LPA shall default under the provisions of this section.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in asserting successfully a claim against the LPA for indemnity pursuant to this contract.

N. Merger & Modification. This Contract constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary PARTIES.

O. Non-Discrimination.

1. This Contract is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.

Under IC 22-9-1-10 LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.

2. The LPA understands that INDOT is a recipient of federal funds. Pursuant to that understanding, the LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-2.50, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's

nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, income status, limited English proficiency, or status as a veteran).

3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
  - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
  - b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
  - c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
  - d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
  - e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
  - f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.



The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- P. Payment. All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- Q. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.
- R. Pollution Control Requirements. If this Contract is for \$100,000 or more, the LPA:
1. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
  2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
  3. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.
- S. Severability. The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.
- T. Status of Claims. The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel  
Indiana Department of Transportation  
100 North Senate Avenue, Room N758  
Indianapolis, Indiana 46204-2249

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Non-Collusion

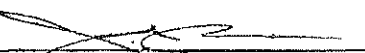
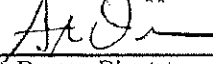
The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.

In Witness Whereof, LPA and the State of Indiana have, through duly authorized representatives, entered into this Contract. The PARTIES having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

LPA: Monroe County

STATE OF INDIANA  
Department of TransportationJulie Thomas  
Print or type name and title

Recommended for approval by:

 7/25/17  
Signature and date  
Steven Duncan, Director  
Contract Administration DivisionAmanda Barge  
Print or type name and title

Date: 8-8-2017

 7/25/17  
Signature and date

Executed by:

Patrick Stoffers  
Print or type name and title (FOR)  
Joseph McGuinness, Commissioner

Date: 8-10-17

 7/25/17  
Signature and date

Department of Administration


LPA DUNS # 157111726

 for  
Jessica Robertson, Commissioner

Date: 8/16/17

Attest:  
  
Auditor or Clerk Treasurer

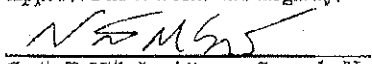
State Budget Agency

  
Jason D. Dudich, Director

Date: 8/28/17

This instrument prepared by:  
Ellen Hite  
July 18, 2017

Approved as to Form and Legality:

 (FOR)  
Curtis T. Hill, Jr., Attorney General of Indiana

Date: 9/15/17