

AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF
WESTFIELD AND HAMILTON COUNTY CONCERNING
THE ISSUANCE OF BONDS AND PAYMENT OF EXPENSES
FROM THE VILLAGE PARK ECONOMIC DEVELOPMENT AREA

This Interlocal Agreement entered into by and among the Board of Commissioners of Hamilton County, and the Hamilton County Council, acting on behalf of Hamilton County, Indiana, ("the County"); the Hamilton County Redevelopment Commission ("the Commission"); and the Common Council and the Board of Public Works and Safety on behalf of the City of Westfield ("the City").

WITNESS THAT:

WHEREAS, the Hamilton County Redevelopment Commission ("Commission") on the 15th day of August, 1989, passed a Declaratory Resolution No. 8-15-89, which established the Village Park, Washington Township, Economic Development Area ("the Area"); and,

WHEREAS, the Commission, acting on behalf the County, subsequently issued its Redevelopment District Tax Increment Revenue Bonds of 1990, dated June 1, 1991, ("the 1990 Bonds"); and,

WHEREAS, the 1990 Bonds were subsequently refunded by the Commission through issuance of its Redevelopment District Tax Increment Refunding Revenue Bonds of 1993, dated June 1, 1993, ("the Refunding Bonds"), which Refunding Bonds have been paid in full; and,

WHEREAS, since the time of the creation of the Area, the Town of Westfield, as the predecessor of the City of Westfield, annexed all of the real estate within the Area; and,

WHEREAS, Indiana Code 36-7-14-3.5, provides that after the final date of an annexation by a municipality, a county redevelopment commission may not issue bonds payable from allocated property tax proceeds from an allocation area unless the legislative body of the municipality adopts an ordinance permitting the issuance of bonds and use of the allocated property tax proceeds from the area to pay the bonds; and,

WHEREAS, pursuant to an Interlocal Agreement among the Town of Westfield, the Hamilton County Redevelopment Commission, and the County, the Redevelopment Commission issued its Hamilton County (Indiana) Redevelopment District Tax Increment Revenue Bonds of 2005 (“the 2005 Bonds”) to fund the construction of certain public infrastructure serving and benefiting the Area; and,

WHEREAS, the principal and interest on the 2005 Bonds are paid from tax increment collected from the Area; and,

WHEREAS, the Bond Resolution authorizing the issuance of the 2005 Bond permits the issuance of parity bonds payable from tax increment generated from the Area; and,

WHEREAS, on April 1, 1999, the Hamilton County Redevelopment Authority issued its Hamilton County Redevelopment Authority County Option Income Tax Lease Rental Bonds of 1999 (“the 1999 Bonds”) in the amount of Forty-one Million Four Hundred Seventy Thousand Dollars (\$41,470,000) to construct 146th Street from Springmill Road to State Road 31, including the 146th Street Bridge over U.S. 31 (“the 146th Street Project”), which project is in or physically connected to the Area; and,

WHEREAS, the 1999 Bonds have been refunded by the Hamilton County, Indiana County Option Income Tax Refunding Revenue Bonds of 2005 (“the 2005 146th Street Bonds”), and the 2005 146th Street Bonds have an annual scheduled principal and interest payment of over Three Million Dollars (\$3,000,000) per year through the 2019 tax collection year; and,

WHEREAS, pursuant to Indiana Code 36-7-14-39(b)(2)(D) tax increment from an allocation area (as defined in Indiana Code 36-7-14-39(a)) may be used to pay the principal of and interest on bonds issued by the County for local public improvements located within or physically connected to an allocation area and partial payments toward the 2005 146th Street Bonds are therefore a permitted use of tax increment from the Area; and,

WHEREAS, Indiana Code 36-7-14-39(b)(3), provides that a redevelopment commission, before July 15th of each year, may determine the amount of assessed value which will be needed to produce property taxes necessary to make payments of principal and interest on the bonds and to pay other permitted expenses of the Commission; and,

WHEREAS, the City is desirous of entering into an Agreement with the County and the Commission for the Commission to issue bonds in an amount not to exceed Seven Million Seven Hundred Thousand Dollars (\$7,700,000), the proceeds of which will be used for the Commission to pay the costs of the 2010 projects as hereinafter defined as ("the Projects"), which Projects meet the requirements of Indiana Code 36-7-14-25.1, and includes the cost of right of way, design, and construction of public infrastructure, plus all reasonable legal, accounting, advertising, bond discount, and other expenses which are normally associated with the issuance of municipal bonds.

IT IS THEREBY AGREED by and between the County and the City as follows:

1. The County agrees to initiate all procedures necessary for the County and the Commission to issue its Redevelopment District Tax Increment Revenue Bonds of 2010 ("the 2010 Bonds") in an amount no greater than Seven Million Seven Hundred Thousand Dollars (\$7,700,000) which bonds shall be paid from semi-annual principal and interest payments not to exceed Three Hundred Forty Thousand Dollars (\$340,000) from August 2010 through February 2020; and One Hundred Eighty Thousand Dollars (\$180,000) from August 2020 through February 2025, and Six Hundred Thousand Dollars (\$600,000) from August 2025, through no later than February of 2031. All tax increment from the Area after 2010 and before February of 2031 shall be irrevocably pledged to be used for payments toward the 2005 Bonds and the 2010 Bonds.

2. The Common Council agrees to pass an ordinance authorizing the issuance of the 2010 Bonds and approving the use of tax

increment collected from the Area to be used to pay principal and interest on the 2010 Bonds, the 2005 Bonds, and the 2005 146th Street Bonds, and for the other purposes set out herein.

3. The 2010 Bonds shall be issued prior to June 1, 2010, and shall be fully amortized on or before a final payment in February of 2031.

4. The Commission shall, on or before June 15th of each year issue instruction to the Hamilton County Auditor pursuant to Indiana Code 36-7-14-39(b)(3) that the Commission shall receive the tax increment from at least seventy-five percent (75%) of the assessed value from the Area. However, the Common Council may request said percentage to be increased in years after the 2011 tax collection year by delivering a Resolution of the Common Council to the Commission requesting the percentage of the increment to be increased. The Resolution shall be delivered to the Hamilton County Auditor prior to June 1st and shall be in the form attached as Exhibit A. Upon receipt the Commission's authorized representative shall issue instruction to the Auditor to increase the amount of the assessment captured from the Area. The Commission shall use the tax increment collected from the Area to pay the following:

- a. Payment of the principal and interest on the 2005 Bonds and 2010 Bonds.
- b. Reimbursement of any previous draws made upon the debt service reserve funds established by the resolutions authorizing the issuance of the 2005 Bonds or 2010 Bonds.
- c. Payment to the Commission of at least Three Hundred Thousand Dollars (\$300,000) per year for the Commission to pay part of the principal and interest on the 2005 146th Street Bonds through the 2019 tax collection year.

- d. All tax increment in excess of the amounts set out in Sections 4a, 4b, and 4c above shall be deposited in the Village Park Economic Development Area Allocation Fund (“the Allocation Fund”) created by Indiana Code 36-7-14-39(b)(2). The Allocation Fund shall be used by the Commission to pay the costs of design, right of way acquisition, or construction of local road improvements on the west side of U.S. 31, between Greyhound Pass and 161st Street, which improvements serve and will benefit the Area by enhancing traffic flows from the west side of U.S. 31 to the Area.

If the County Auditor, reasonably believes that the increment collected from the seventy-five percent (75%) of the assessed value within the Area will be insufficient to pay the above amounts, the President, or Secretary of the Commission before June 15th of each year shall instruct the Auditor to increase the amount of the assessed value captured by the Commission in the subsequent year from seventy-five percent (75%) of the assessed value, to an amount necessary to generate tax increment from the Area to pay all of the costs listed in Section 4 above.

The tax increment from the Area shall first be used the costs in Section 4a with the balance of the costs being paid in the order listed in this Sections 4b, 4c, and 4d.

5. The Auditor shall administer the tax increment in accordance with Indiana Code 36-7-14, and Indiana Code 36-7-25; the requirements imposed by the documents necessary to issue the 2005 Bonds, the 2010 Bonds; and this Interlocal Agreement.

6. The proceeds of the 2010 Bonds to be issued by the Commission shall be used to pay the costs of the following Project in the following priority:

- a. Payment of all accounting, legal, rating agency, underwriting, and other issuance costs normally incurred for the issuance of municipal bonds.
- b. Funding a debt service reserve fund in an amount recommended by the County's financial advisor.
- c. A capitalized interest fund to pay all interest due on the 2010 Bonds through February of 2011, which funds shall be maintained by the Hamilton County Auditor.
- d. Payment to the contractor selected by Hamilton County to construct a multi-use bridge for the Monon Trail over 146th Street, ("the Bridge Project") an amount equal to eighty percent (80%) of one-third (1/3), (or 26.4%), of the local matching funds (estimated at approximately (\$160,000) to pay part of the construction, construction inspection, and utility relocation costs of the Bridge Project, which Project will connect the existing multi-use paths on both sides of 146th Street and will enhance alternate transportation access to the Area, all to the benefit of the economic development within the Area. This payment shall be the City's full contribution to the Bridge Project.
- e. The payment of design costs, right of way costs, utility relocation expenses, construction inspection costs, and construction costs of an East Access Road, a new three-lane roadway beginning at a point approximately 1,025 feet east of the intersection of Greyhound Pass and US 31 and extending north to approximately 1,200' east of the intersection of 151st Street and US 31, including

either a signalized or roundabout intersection at Greyhound Pass and a roundabout intersection at 151st Street, including a new entrance into Cool Creek Park. The roadway will include combined concrete curb and gutter, a 10' HMA multi-use path, storm water inlets, and a gravity storm sewer system. The project also includes the resurfacing 151st Street from Thatcher to Bridlewood Road and installation of a 10'-wide HMA path along the South side of 151st Street from East Access Road to the Cool Creek bridge within existing right-of-way ("the 2010 Project").

7. Upon issuance of the 2010 Bonds, the Hamilton County Auditor shall transfer bond proceeds into the appropriate accounts to pay the costs defined in Section 6a, 6b, 6c, and 6d above. The balance of the 2010 Bond proceeds shall be transferred to a corporate trustee and deposited into a construction fund ("the Construction Fund") to be used to pay the costs of the 2010 Project.

8. Upon either the payment of all of the costs of the 2010 Project, or certification by the City's Consulting Engineer that there are sufficient funds in the Construction Fund to pay all of the costs of the 2010 Project, the balance of the Construction Fund may be used by the City to pay the costs of design, right of way, or construction of local street or road improvements on the west side of U.S. 31, between Greyhound Pass and 156th Street, which improvements serve and will benefit the Area by enhancing traffic flows from the west side of U.S. 31 to the Area.

9. The City shall select such engineers and design professionals as are necessary to design and inspect the construction of the 2010 Project. The City shall be responsible for receiving bids and awarding the contracts for the design, inspection, and construction of the Project.

10. The parties agree that notwithstanding any statute to the contrary, neither the City nor the County will take any steps to issue any bonds, other than the 2005 and 2010 Bonds, payable from tax increment from the Area without an Interlocal Agreement between the City and the County. The parties further agree that all assessed value in the Area after the tax year 2019, above the amount necessary to pay the payments required by the 2005 and 2010 Bonds, shall be allocated to the respective underlying taxing units unless there is an Interlocal Agreement between the City and the County providing to the contrary.

11. The parties agree that in the event it is determined that there will be financial benefit to the refunding, or the advance refunding, of either the 2005 Bonds, the 2010 Bonds, or both, the parties shall take all steps necessary to refund the Bonds. The parties agree that any extra bond proceeds derived from any refund may be used to pay the costs of any public transportation project serving and benefiting the Area or be used to reduce the amount of tax increment paid to the Commission resulting in an increased assessed value from the Area to be allocated to the respective taxing units.

12. In the event there are any disputes arising under this Agreement, those disputes shall initially be discussed in a settlement conference to be held among the following: the Mayor of the City; one (1) member of the City Council; the City Attorney; two (2) members of the Board of Commissioners; and the County Attorney. If there is no resolution of the dispute at the settlement conference, the dispute shall be submitted to mediation, pursuant to the Rules of Alternative Dispute Resolution prior to initiating litigation. In the event that the parties cannot agree on an acceptable mediator, a mediator shall be appointed by the Judge of the Circuit Court of Hamilton County.

13. The parties agree to take all steps necessary to implement the terms and conditions of this Agreement, including the passage of such resolutions and ordinances as are necessary to issue the 2010

Bonds and to further implement the terms and conditions of this Agreement.

ALL OF WHICH IS AGREED by and between the Board of Commissioners of Hamilton County and the Hamilton County Council, acting on behalf of Hamilton County, Indiana, ("the County"), the Hamilton County Redevelopment Commission ("the Commission") and the Common Council and the Board of Public Works and Safety of the City of Westfield on the dates set out herein.

BOARD OF COMMISSIONERS
OF HAMILTON COUNTY

Date: _____

Steven A. Holt

Steven C. Dillinger

ATTEST:

Christine Altman

Dawn Coverdale, Auditor

ALL OF WHICH IS APPROVED by the Hamilton County Council
this _____ day of _____, 2010.

HAMILTON COUNTY COUNCIL

Meredith Carter

James J. Belden

Judith Levine

John Hiatt

Rick McKinney

Steve Schwartz

Brad Beaver

ATTEST:

Dawn Coverdale, Auditor

ALL OF WHICH IS APPROVED this ____ day of _____,
2010.

HAMILTON COUNTY
REDEVELOPMENT COMMISSION

Art Levine, President

William G. Crandall, Vice President

Charlotte Swain, Secretary

Stephen K. Andrews, Member

ATTEST:

Ron Thomas, Member

Charlotte Swain, Secretary

ALL OF WHICH IS APPROVED this ____ day of _____,
2010, by the Westfield City Council, Hamilton County, Indiana.

WESTFIELD CITY COUNCIL

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
_____ John Dippel	_____ John Dippel	_____ John Dippel
_____ Steve Hoover	_____ Steve Hoover	_____ Steve Hoover
_____ Bob Horkay	_____ Bob Horkay	_____ Bob Horkay
_____ Ken Kingshill	_____ Ken Kingshill	_____ Ken Kingshill
_____ Bob Smith	_____ Bob Smith	_____ Bob Smith
_____ Thomas Smith	_____ Thomas Smith	_____ Thomas Smith
_____ Rob Stokes	_____ Rob Stokes	_____ Rob Stokes

ATTEST:

Cindy Gossard, Clerk Treasurer

J. Andrew Cook, Mayor

ALL OF WHICH IS APPROVED this ____ day of _____,
2010, by the Westfield Board of Public Works and Safety, Hamilton
County, Indiana.

WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
_____ J. Andrew Cook	_____ J. Andrew Cook	_____ J. Andrew Cook
_____ Jack Hart	_____ Jack Hart	_____ Jack Hart
_____ Mark Heirbrandt	_____ Mark Heirbrandt	_____ Mark Heirbrandt

ATTEST:

Cindy Gossard, Clerk Treasurer

EXHIBIT A

Resolution _____

A Resolution of the Westfield Common Council

WHEREAS, Hamilton County and the City of Westfield entered into an Interlocal Agreement concerning the issuance of bonds and payment of expenses from the Village Park Economic Development Area which was approved by this Council on the _____ of February, 2010, (“the Interlocal Agreement”); and,

WHEREAS, the Interlocal Agreement provided that the Hamilton County Redevelopment Commission would begin collecting seventy-five percent (75%) of the assessed value from the Area beginning in tax year 2011 and that the amount of increment collected from the Area could be increased upon a request of the Westfield Common Council; and,

WHEREAS, it is the desire of the Westfield Common Council to cause the Hamilton County Auditor to collect more than seventy-five percent (75%) from the Area beginning with tax year 20__.

IT IS THEREBY RESOLVED by the Common Council of the City of Westfield as follows:

1. The Hamilton County Redevelopment Commission is requested to increase the amount of tax increment collected from the Village Park Economic Development Area from seventy-five percent (75%) to

_____ percent beginning
with property taxes collected in calendar year _____
and for each and every year thereafter through tax collection
year 2030.

2. The additional tax increment shall be used pursuant to the terms and conditions set out in the Interlocal Agreement.
3. This Resolution is in full force and effect upon passage.
4. The Clerk Treasurer of the City is requested to cause a copy of this Resolution to be delivered to the Office of the Hamilton County Auditor on or before June 1st of this year.

ALL OF WHICH IS RESOLVED by the Common Council of the City
of Westfield this _____ day of _____, 20__.

(signatures)