



Mayor
Andy Cook

City Council
John Dippel
Steve Hoover
Robert L. Horkay
Ken Kingshill
Robert J. Smith
Tom Smith
Rob Stokes

Clerk Treasurer
Cindy J. Gossard

To: Westfield Board of Work

From: Melody Jones

CC: Andy Cook, Todd Burtron

Date: May 11, 2011

RE: AT&T Fiber Relocation Agreement

Dear Board Members:

Hamilton County will be building a pedestrian bridge for the Monon Trail over 146th Street. AT&T has fiber located in an easement along the Monon Trail. As a result of the bridge project this fiber needs to be relocated. AT&T will be doing boring for two weeks in the Westfield section of the Monon Trail north of 146th Street and installing a new hand hole at the Greyhound Pass Trailhead. This work has begun.

We have asked for an agreement from AT&T and their contractor Midwest regarding construction conditions; safety and restoring the trail and the corridor to pre-construction conditions. In addition they have provided a \$30,000 License Bond. Both are attached.

I am asking for the Board of Works and Safety to ratify this agreement with AT&T.

Parks and Recreation

(317) 804-3184 admin office
(317) 804-3190 fax

2728 East 171st Street
Westfield, IN 46074

westfield.in.gov

AGREEMENT BY AND BETWEEN THE CITY OF WESTFIELD AND AT&T
REGARDING FIBER RELOCATION WITHIN THE
MONON TRAIL CORRIDOR

Dated: May 5, 2011

WHEREAS, Hamilton County Indiana ("County") has begun construction of the Monon Trail Bridge across 146th Street requiring extensive work on and along the Monon Trail Corridor ("Monon") within the City of Westfield ("City"); and,

WHEREAS, AT&T ("ATT") owns and maintains a fiber network within the Monon Trail Corridor that will be impacted by the County requiring relocation and disruption of the Monon; and,

WHEREAS, the City and ATT wish to enter into this agreement to resolve any and all issues that may be encountered.

THEREFORE, based on the mutual covenants contained herein and other valuable consideration, the receipt of which is hereby acknowledged the parties agree as follows:

CITY OF WESTFIELD

1. The City is the owner of the Monon subject to the easements rights of ATT. City will allow for the ATT to operate within the Monon above and beyond those easement rights as necessary to relocate the fiber. City will cooperate with any and all neighboring land owners and authorities to allow for the swift and efficient relocation of the fiber.

ATT&T

2. ATT hereby agrees to restore any and all disrupted paving, landscaping, and signage to preconstruction condition as determined by the Westfield Parks Director.

3. ATT agrees to the following related to lessening the negative impact of the relocation and to protect the City and trail users:

- a) Use rubber mats on the Monon surface.
- b) Utilize the Rohrer Road Trailhead in Carmel for the staging and all overnight storage of all necessary equipment.
- c) Coordinate any and all necessary detours and signage for the same with the City.
- d) ATT agrees to indemnify the City and hold it harmless against any and all claims made based upon the activities in relocating the fiber except to the extent caused by negligence or willful misconduct of the City of Westfield.
- e) A maintenance bond in an amount of no less than Thirty Thousand Dollars (\$30,000.00) shall be secured naming the City as an additionally insured party.
- f) ATT take all necessary steps to allow for the Trail to remain open and passable for use by the general public.
- g) ATT shall remain responsible for any and all activities of its contractors, agents and assigns. Midwest Underground, Inc (“Midwest”) has been the chosen contractor for the relocation project and agrees to acquire the maintenance bond.

IN WITNESS WHEREOF, the parties hereto have executed these Commitments the date and year first above written.

“ATT”

^{CORP.}
AT&T ~~an Indiana limited liability company~~

By: Alvin S. Richardson

Name: ALVIN S. RICHARDSON

Title: SR. TECH- PROJ. MANAGEMENT

“CITY”

CITY OF WESTFIELD INDIANA

By: Melody Jones

Name: Melody Jones

Title: Director Parks & Recreation

“MIDWEST”

MIDWEST UNDERGROUND, INC.

By: [Signature]

Name: JOHN WEDEMEYER

Title: COEN SUPT

Bond No: 2143742

LICENSE OR PERMIT BOND

KNOW ALL BY THESE PRESENTS, that we, Midwest Underground, Inc.
as Principal, and North American Specialty Insurance Company, a New Hampshire, Corporation are held and
firmly bound unto City of Westfield, Indiana as Obligee, in the penal
sum of Thirty Thousand Dollars and 00/100 Dollars (\$ 30,000.00), good and lawful money of
the United States, for payment of which well and truly to be made, we bind ourselves, and our heirs, executors,
administrators, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has applied to said Obligee for a license or permit to do business as
a Right-of-Way Contractor

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that, if Principal shall faithfully
observe and honestly comply with the provisions of all Laws or Ordinances of Obligee regulating the business for which
license or permit is issued, then this obligation shall be void; otherwise to be and remain in full force and effect.

PROVIDED HOWEVER:

This bond shall continue in force:
Until _____, _____, or until the date of expiration of any Continuation
Certificate executed by the Surety.

Until canceled as herein provided:
This bond may be canceled by the Surety by sending notice in writing to the Obligee, stating when, not
less than ten days thereafter, liability shall terminate as to subsequent acts or omissions of the Principal.

Signed, sealed and dated this 9th day of May, 2011.

Surety: North American Specialty Insurance Company Principal: Midwest Underground, Inc.

By: *Dianne S. Riley*
Dianne S. Riley Attorney-in-Fact

By: _____



North American Specialty Insurance Company, Manchester, New Hampshire 03101

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Schaumburg, Illinois, each does hereby make, constitute and appoint:

Dianne S. Riley

Its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, the following surety bond:

Principal: Midwest Underground, Inc.

Bond Number: 2143742

Obligee: City of Westfield, Indiana

Bond Amount: See Bond Form

Bond Description: NAS Ins Co License or Permit Bond - Continuous (License & Permit)

Provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the amount of:

FIFTY MILLION (\$50,000,000) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 24th of March, 2000:

RESOLVED, that any two of the Presidents, any Managing Director, Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature] Steven P. Anderson, President & Chief Executive Officer of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company

By [Signature] David M. Layman, Senior Vice President of Washington International Insurance Company & Vice President of North American Specialty Insurance Company



IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 16th day of September 20 10 .

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Cook ss:

On this 16th day of September 20 10 , before me, a Notary Public personally appeared Steven P. Anderson , President and CEO of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and David M. Layman , Senior Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature] Donna D. Sklens, Notary Public

I, James A. Carpenter , the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 9th day of May , 2011 .

[Signature] James A. Carpenter, Vice President & Assistant Secretary of Washington International Insurance Company & Assistant Secretary of North American Specialty Insurance Company