

AN INTERLOCAL AGREEMENT CONCERNING THE FINANCING,
CONSTRUCTION, AND MAINTENANCE OF A MULTI-USE
PATH FOR THE MONON TRAIL OVER 146th STREET

THIS AGREEMENT entered into by and among Hamilton County, acting through its Board of Commissioners and County Council (“the County”); the Carmel/Clay Board of Parks and Recreation (“the Park Board”); Clay Township, Hamilton County, Indiana, acting through its Advisory Board and Trustee (“Clay Township”); and the City of Westfield, acting through its Common Council (“Westfield”).

WHEREAS, the Hamilton County Highway Department, acting on behalf of the County has been the lead agency in designing and obtaining Federal funding for a five (5) span, pre-engineered steel truss bridge to connect the Monon greenway from Carmel to Westfield over and across 146th Street (“the 146th Street Right of Way”). The bridge structure will span four hundred twenty-eight (428’) feet and provide a twelve (12’) foot wide path to provide a safe crossing for Monon greenway users, and will include heating elements for the portion of the Monon Trail located on the bridge (“the Project”).

IT IS THEREBY AGREED by and between the parties as follows:

1. The County shall continue all necessary procedures to construct the Project, including coordination with the Indiana Department of Transportation (“INDOT”), for the bidding, construction, construction management, utility relocation, and other activities necessary to construct the Project.
2. The County has prepared a preliminary budget for the Project which includes the following costs:

TOTAL PROJECT BUDGET

Construction	2,609,000
Construction Inspection	319,000
Design	208,000 ¹
Utility Relocation	<u>143,506²</u>
Total anticipated Costs	3,279,506

¹ These costs have been paid by the County and are not included as Shared Costs.

² These costs have been paid by the County and are not included as Shared Costs. These expenses are to be paid by the County under a reservation of rights which allows the County to file suit within one (1) year to recover these costs under Indiana law.

3. INDOT has allocated up to Two Million Four Hundred Ninety-six Thousand Dollars (\$2,496,000) of Federal STP funds available to pay eighty (80%) percent of the costs of the construction and construction inspection for the Project.
4. The sources of funds to pay the construction and construction inspection costs which are not paid from Federal funds (“the Shared Costs”) of the Project shall be divided among the parties as follows:

CALCULATION OF ESTIMATED SHARED COSTS

Construction	2,609,000
Construction Inspection	<u>319,000</u>
TOTAL	2,928,000
LESS Federal Aid (80%)	<u>(2,342,400)</u>
TOTAL Estimated Shared Costs	585,600

DIVISION OF SHARED COSTS

Hamilton County	234,240
Clay Township Trustee	195,200
Westfield (from TIF)	<u>156,160</u>
TOTAL	585,600

5. The County shall pay its portion of the Shared Costs, the design costs, and utility relocation costs from certain redevelopment funds held by the County.
6. Westfield agrees to pay its portion of the Shared Costs from the existing construction funds for the Village Park Economic Development Area.
7. The County shall pay all of the cost of permitting, design, and other professional expenses associated with the Project.
8. Part of the Project will be constructed within the Monon Trail right of way, owned by Carmel, (“the Carmel Railroad Right of Way”). The Project will be constructed within the Carmel Railroad Right of Way a distance of six hundred fifty (650’) feet south of the 146th Street Right of Way.
9. Part of the Project will be constructed within the Monon Trail right of way, owned by Westfield, (“the Westfield Railroad Right of Way”). The Project will be constructed within the Westfield Railroad Right of Way a distance of five hundred (500’) feet north of the 146th Street Right of Way.

10. Duke Energy, Inc., (“Duke”) presently maintains electric wires and poles located within the 146th Street Right of Way, which facilities must be relocated in order to accommodate the safe construction and use of the Project.
11. Bright House, Inc., (“Bright House”) is the owner of equipment located on the poles of Duke on the north side of 146th Street, which facilities must be relocated in order to accommodate the safe construction and use of the Project.
12. Both Duke and Bright House are demanding to be reimbursed the cost of relocating their facilities to accommodate the Project.
13. The County anticipates entering into Utility Relocation Agreements with both Duke and Bright House, which provide for the County to pay Duke and Bright House the cost of their relocation expenses, but reserving unto the County the right to recover the utility relocation costs pursuant to a declaratory judgment lawsuit.
14. In order to facilitate the relocation of the facilities of Duke and Bright House, the Utilities have prepared a plan to bury the wires and other facilities which are in conflict with the construction and use of the Project. The total utility relocation costs for the Project are anticipated to be at least One Hundred Fifty Thousand Dollars (\$150,000).
15. Westfield agrees to execute easements in the Westfield Railroad Right of Way which are necessary for Duke and Bright House to bury their new facilities to accommodate the Project.
16. The Common Council of Westfield, by its signature hereto authorizes its Board of Public Works and Safety to execute all utility easements necessary to accommodate the utility relocation for the Project.
17. The parties to the extent which may be legally necessary, authorize the County, to initiate all actions and claims against Duke and Bright House which the County deems necessary in order for the County to recapture any or all utility relocation expenses incurred to accommodate the construction of the Project.
18. The Project is presently scheduled to be bid by INDOT in May of 2012.
19. The parties agree that upon the receipt of bids for the Project, the County shall provide all parties the cost of the Project, including the bid amount, a contingency of four (4%) percent, and construction inspection costs (“the Final Costs”).

20. The County shall advance the local share of construction funds to INDOT upon the receipt of bids. If the Total Shared Costs are less than the amount shown in Section 4, each party's payment shall be reduced in proportion to the reduction in Total Shared Costs and the amount of the resulting Shared Costs shall be paid to the County within thirty (30) days. The County agrees to pay any costs over and above the amount of the Shared Costs shown in Section 4.
21. The parties agree that the Clay Township Trustee and/or the Park Board shall be responsible for paying the electric charges necessary to heat the bridge; maintaining the heating system for the bridge; and periodic removal of snow, trash, and other debris from the bridge.
22. The County shall be responsible for all structural maintenance of the bridge.
23. The County agrees to provide the parties final copies of the plans for the Project prior February 15th, and shall establish periodic meetings to update the parties of the progress during the construction of the Project. Said meetings shall occur at least as frequently as every sixty (60) days beginning with the initiation of construction.
24. 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:
 - a. The Clay Township Trustee or his designated representative from the Clay Township Advisory Board;
 - b. The Mayor of Westfield or his designated representative from the City Council;
 - c. One (1) member of the Board of Commissioners; and,
 - d. One (1) member of the Hamilton County Council.
 - e. A member of the Park Board.

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 the parties cannot agree on an acceptable mediator, a mediator shall be appointed by the Judge of the Circuit Court of Hamilton County.

25. Notices under this Interlocal Agreement shall be sent to the following:

Hamilton County, Indiana
Attn: Board of Commissioners
33 N. 9th Street
Suite L-21
Noblesville, Indiana 46060

Carmel/Clay Board of Parks and Recreation
Attn: President
1235 Central Park Drive East
Carmel, Indiana 46032

Clay Township Trustee
10701 N. Collage Avenue
Indianapolis, Indiana 46280

City of Westfield
c/o the Mayor
130 Penn Street
Westfield, Indiana 46074-9544

26. The parties agree that this Interlocal Agreement may be signed in counter parts and approved by a resolution of the legislative and fiscal bodies of the parties.

IN WITNESS WHEREOF, the undersigned Board of Commissioners of Hamilton
County have approved this Interlocal Agreement on the ____ day of _____, 2012.

BOARD OF COMMISSIONERS OF
HAMILTON COUNTY

Steven A. Holt

Steven C. Dillinger

Christine Altman

ATTEST:

Dawn Coverdale, Auditor

This Interlocal Agreement ratified and approved by the Hamilton County Council
this ____ day of _____, 2012.

HAMILTON COUNTY COUNCIL

James J. Belden

Meredith Carter

Amy Massillamany

Paul Ayers

Rick McKinney

Steve Schwartz

Brad Beaver

ATTEST:

Dawn Coverdale, Auditor

APPROVED AND ADOPTED this ____ day of _____, 2012.

CARMEL/CLAY BOARD OF PARKS AND RECREATION

Joseph R. Miller, President

Judith F. Hagan, Vice President

James L. Engledow, Treasurer

Richard F. Taylor III, Secretary

Wendy Franklin

Donna Cihak Hansen

Joshua A. Kirsh

Pamela S. Knowles

Richard Leirer

ATTEST: _____, Secretary
Richard F. Taylor III

ALL OF WHICH IS APPROVED this _____ day of _____, 2012.

CLAY TOWNSHIP ADVISORY BOARD

Paul Bolin

Mary Eckard

Matthew Snyder

ATTEST:

Douglas Callahan, Clay Township Trustee

ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD, HAMILTON COUNTY, INDIANA THIS _____ DAY OF _____ 2012.

WESTFIELD COMMON COUNCIL
Hamilton County, Indiana

Voting For

Voting Against

Abstain

Jim Ake

Jim Ake

Jim Ake

John Dippel

John Dippel

John Dippel

Steven Hoover

Steven Hoover

Steven Hoover

Robert L. Horkay

Robert L. Horkay

Robert L. Horkay

Robert J. Smith

Robert J. Smith

Robert J. Smith

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

Robert W. Stokes

Robert W. Stokes

Robert W. Stokes

ATTEST:

Cindy J. Gossard, Clerk Treasurer

Signed