



*Department of Engineering*

**July 14, 2020**

Board of Public Works & Safety  
10 South State Street  
Greenfield, IN 46140

Dear Members,

INDOT is planning to bid their SR 9: US 52 to CR 300 N resurfacing and access control project in August. INDOT is also very interested in seeing the City of Greenfield complete the storm sewer improvement project that we attempted to bid a month ago.

INDOT has offered to bid our north storm sewer project (Grant to McKenzie) as a part of their project with the hope to get some economies of scale. Greenfield would reimburse INDOT for any aspect of the storm project that we'd be responsible for (everything except the inlets).

In addition, INDOT is offering up to a 50% match, not to exceed \$300,000, for the north section to help make sure that the project is successful.

Attached is the Interlocal Cooperative Agreement between INDOT and the City of Greenfield defining the terms and conditions for our partnership. I would like to ask the board approve and execute the Interlocal Cooperative Agreement.

Sincerely,

A handwritten signature in black ink that reads "Jason Koch". The signature is written in a cursive, flowing style.

Jason Koch, PE  
City Engineer

**INTERLOCAL COOPERATIVE AGREEMENT**  
**Between**  
**THE INDIANA DEPARTMENT OF TRANSPORTATION**  
**And**  
**CITY OF GREENFIELD**  
**Concerning**  
**STATE ROAD 9 STORM SEWER REPLACEMENT**

**EDS #A249-\_\_\_\_\_**

This Interlocal Agreement (“Agreement”) is made by and between the Indiana Department of Transportation (hereinafter referred to as “INDOT”), and the City of Greenfield, through its Board of Public Works, (hereinafter referred to as “CITY”), collectively referred to as the “Parties”, is executed pursuant to the terms and conditions set forth herein and shall be effective as of the date of approval by the Office of the Indiana Attorney General. In consideration of those mutual undertakings and covenants, the Parties agree as follows:

**RECITALS**

WHEREAS, INDOT has a programmed project under Des. No. 1602146 to conduct preventative maintenance on State Road 9 (“SR 9”) from US 52 to Interstate 70 (“I-70”), which is estimated to cost approximately **\$10,732,000.00** under Construction Contract RS-39993 (the “Project”); and

WHEREAS, the CITY is responsible for maintaining the storm sewer along SR 9 and has requested that INDOT replace the storm sewer on SR 9 from Grant Street to McKenzie Road (hereinafter the “Storm Sewer Replacement”) as part of INDOT’s Project; and

WHEREAS, INDOT has agreed to replace the storm sewer from Grant Street to McKenzie Road along SR 9 as part of its Project, as shown in **Exhibit A**, attached hereto and herein incorporated by reference; and

WHEREAS, the cost of the Storm Sewer Replacement is currently estimated to be approximately **\$600,000.00** (“Estimated Cost.”); and

WHEREAS, the Parties are simultaneously entering into an LPA agreement (EDS #A249-20-L200092), a copy of the proposed agreement is attached as **Exhibit B** and incorporated herein by reference, wherein INDOT has agreed to provide a 50% match not to exceed the Estimated Cost for the Storm Sewer Replacement; and

WHEREAS, the CITY has agreed to pay 50% of the Estimated Cost and for any and all costs which may exceed the Estimated Cost, including all change orders, associated with the Storm Sewer Replacement, and all costs associated with future maintenance of the storm sewer; and

WHEREAS, it is in the mutual interest for the convenience and safety of the traveling public for the Parties to cooperate regarding construction and maintenance of the storm sewer;

NOW THEREFORE, in consideration of the promises and the mutually dependent covenants herein contained, the Parties hereto agree as follows:

**I. SPECIFIC PROVISIONS**

**1.1. Project Description.** The Project shall include preliminary engineering, construction, and inspection of SR 9, including the replacement of the storm sewer from Grant Street to McKenzie Road, as shown in **Exhibit A.**

**1.2. CITY's Responsibilities.**

**1.2.1. Financial Responsibilities.** The CITY shall be responsible for 50% of the Estimated Cost, and for any and all costs which may exceed the Estimated Cost, in an amount not to exceed **\$600,000.00.** This does not include installation of the inlets and catch basins. All change orders for the Storm Sewer Replacement shall be the sole responsibility of the CITY.

**1.2.2. Project Responsibilities.** The CITY shall cooperate with INDOT as needed to ensure successful completion of the Storm Sewer Replacement as part of INDOT's Project.

**1.2.3.** The CITY has programmed a local project to replace the storm sewer on SR 9 from Osage Street to Blank Street. The CITY's local project shall occur simultaneously with INDOT's Project, and the CITY shall coordinate efforts with INDOT to ensure the CITY's local project does not impede the progress and successful completion of INDOT's Project.

**1.2.4. Future Maintenance.** The City shall be solely responsible for all future maintenance of the storm sewer in accordance with I.C. 8-23-6-3.

**1.4 INDOT'S Responsibilities.**

**1.4.1. Financial Responsibilities.** INDOT shall be responsible for the costs of the preliminary engineering, construction, and construction inspection for the Project under its Construction Contract RS-39993 in an amount not to exceed **\$10,732,000.00.** This includes installation of the inlets and catch basins for the Storm Sewer Replacement. As part of its construction project, INDOT has agreed to provide a 50% match of the Estimated Cost in an amount not to exceed **\$300,000.00** for the Storm Sewer Replacement.

**1.4.2. Project Responsibilities.**

**1.4.2.1.** INDOT will complete all work necessary to prepare the Project for letting, including all preliminary engineering, design, utility relocation, permitting,

and environmental work. INDOT will let and award the Project for construction through its usual processes.

1.4.2.2. INDOT will manage, administer, and inspect the Project in accordance with applicable laws and INDOT policies, procedures and specifications.

1.5. **Payment of Project Costs.**

1.5.1. **Funding Contribution from the CITY.** The CITY shall make a one-time lump sum payment in an amount not to exceed **\$600,000.00** within thirty (30) days of letting but prior to the issuance of the Notice to Proceed. The CITY shall also be solely responsible for all change orders for the Storm Sewer Replacement.

1.5.2. **Funding Contribution from INDOT.** INDOT agrees to contribute toward the costs of the Project in accordance with its Construction Contract RS-39993 in an amount up to and including **\$10,732,000.00** in federal-aid highway funds. This includes INDOT's 50% match of the Estimated Cost for the Storm Sewer Replacement. Nothing in this Agreement shall be deemed to restrict INDOT's ability to manage available funding sources in providing funds for the Project.

1.6. **Duration and Renewal of Agreement.** The term of this Agreement shall be from the date upon which the Agreement is approved by the Office of the Indiana Attorney General through December 31, 2021, or completion of final audit of the Project by INDOT, whichever occurs first. This Agreement may be renewed or extended under the same terms and conditions subject to the approval of all signing Parties.

1.7. **Project Coordination.** INDOT and the CITY agree to coordinate all plans and schedules pertaining to the Project if the CITY's local project occurs simultaneously with INDOT's Project.

1.8. **Public Statements or Disclosures.** The Parties shall consult with each other and must agree as to the timing, content, and form before issuing any press release or other public statements or disclosures related to the Project or this Agreement. However, this Section does not prohibit either of the Parties from making a public statement or disclosure regarding this Agreement or the Project if, in the opinion of a Party's legal counsel, such a disclosure is required by law, including but not limited to Indiana's Access to Public Records Act (IC 5-14-3), legal process or directive of a regulatory authority having jurisdiction over either PARTY.

1.9. **Interpretation.** The Recitals recorded above are incorporated by reference into this Agreement.

## **II. GENERAL PROVISIONS**

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

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

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the CITY, 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 agreements, 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.

B. 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 such 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.

C. The CITY 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.

**2.3. Compliance with Laws.**

A. The CITY 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 thereunder after execution of this Agreement shall be reviewed by the State and the CITY to determine whether the provisions of this Agreement require formal modification.

B. The CITY 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 CITY 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 CITY shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Agreement.** If the CITY is not familiar with these ethical requirements, the CITY 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 CITY or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the CITY. In addition, the CITY may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

**C. [OMITTED – NOT APPLICABLE.]**

**D. [OMITTED – NOT APPLICABLE.]**

**E. [OMITTED – NOT APPLICABLE.]**

**F.** The CITY warrants that the CITY 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.

**G. [OMITTED – NOT APPLICABLE.]**

**H.** As required by IC §5-22-3-7:

(1) The CITY and any principals of the CITY certify that:

(A) the CITY, 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 CITY 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 CITY and any principals of the CITY certify that an affiliate or principal of the CITY and any agent acting on behalf of the CITY or on behalf of an affiliate or principal of the CITY, 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 Agreement, even if IC §24-4.7 is preempted by federal law.

#### **2.4. Debarment and Suspension.**

A. The CITY 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 CITY.

B. The CITY certifies that it has verified 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 CITY 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.

#### **2.5. Drug-Free Workplace Certification.**

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the CITY hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The CITY will give written notice to the State within ten (10) days after receiving actual notice that the CITY, or an employee of the CITY 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 Agreement 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 Agreement is in excess of \$25,000.00, the CITY certifies and agrees that it will provide a drug-free workplace by:

A. 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 CITY’s workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CITY’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;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CITY of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(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

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**2.6. Employment Eligibility Verification.**

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

A. The CITY 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 CITY is not required to participate should the E-Verify program cease to exist. Additionally, the CITY is not required to participate if the CITY is self-employed and do not employee any employees.

B. The CITY shall not knowingly employ or contract with an unauthorized alien. The CITY shall not retain an employee or contract with a person that the CITY subsequently learns is an unauthorized alien.

C. The CITY shall require its subcontractors, who perform work under this Agreement, to certify to the CITY that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The CITY agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

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

**2.7. 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 is 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.

**2.8. 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 State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**2.9. 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.

**2.10. Indemnification.** The CITY agrees to indemnify, defend, exculpate and hold harmless the State of Indiana, and its officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, to the person or property of anyone arising out of, or resulting from the performance of this Agreement or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or material, to the extent such liability is caused by the negligence of the CITY, including any claims arising out the Worker's Compensation Act or any other law, ordinance, order or decree. INDOT shall **not** provide indemnification to the CITY. The CITY 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 that the CITY shall default under the provisions of this Section.

**2.11. 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, except by written Agreement signed by all necessary Parties.

**2.12. Non-Discrimination.**

A. 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, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the CITY 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 CITY 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

paragraph may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the CITY or any subcontractor.

**B.** INDOT is a recipient of federal funds, and therefore, where applicable, the CITY 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 CITY agrees that if the CITY employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CITY will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CITY 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, income status, limited English proficiency, or status as a veteran.)

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

1. Compliance with Regulations: The CITY 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.

2. Nondiscrimination: The CITY, 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 CITY 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.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CITY 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 CITY of the CITY'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.

4. Information and Reports: The CITY 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 CITY is in the exclusive possession of another who fails or refuses furnish this information, the CITY 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.

5. Sanctions for Noncompliance: In the event of the CITY'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 CITY under the Agreement until the CITY complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: The CITY shall include the provisions of paragraphs 1. through 5. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CITY 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 CITY becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CITY 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 CITY may request the United States of America to enter into such litigation to protect the interests of the United States of America.

**2.13. Notice to Parties.** Whenever any notice, statement or other communication is required under this Agreement, it shall be sent by first class U.S. mail service to the following addresses, unless otherwise specifically advised:

- A. For INDOT: Technical Services Director  
INDOT Greenfield District  
32 South Broadway Street  
Greenfield, IN 46140

With Copy To: Chief Legal Counsel and Deputy Commissioner  
Indiana Department of Transportation  
100 North Senate Avenue, IGCN 758  
Indianapolis, IN 46204

**B.** For CITY: City Engineer  
City Hall  
10 South State Street, Room 111  
Greenfield, IN 46140

**2.14. 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 CITY 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.

**2.15. 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, IC 5-17-5, IC 34-54-8, IC 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.

**2.16. Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

**2.17. Status of Claims.** The CITY shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the CITY resulting from services performed under this Agreement.

**2.18. Termination for Convenience.** This Agreement may be terminated, in whole or in part, by either Party whenever, for any reason, either Party determines that such termination is in its best interest. Termination shall be effected by delivery to the other Party of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective.

**2.19. General.** This Agreement represents the entire understanding between the PARTIES relating to the subject matter and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Agreement must be in writing, reference this Section 2.20 and be signed by duly authorized representatives of the PARTIES (and by all necessary approving State agencies or parties). Neither

this Agreement nor any portions of it may be assigned, licensed or otherwise transferred by the CITY without the prior written consent of INDOT. This Agreement will be binding upon the PARTIES and their permitted successors or assigns. Failure of either Party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. 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 Agreement.

**REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

### **Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that the undersigned is the CITY, or that the undersigned is the properly authorized representative, agent, member or officer of the CITY. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the CITY, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof. **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 Agreement, the CITY attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

**In Witness Whereof**, the Parties have, through their duly authorized representatives, entered into this Agreement. The Parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.

**THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK**

**CITY OF GREENFIELD, INDIANA  
BOARD OF PUBLIC WORKS**

\_\_\_\_\_  
By: Chuck Fewell, Mayor

\_\_\_\_\_  
By: Kelly McClarnon, Member

\_\_\_\_\_  
By: Larry Breese, Member

\_\_\_\_\_  
By: Glenna Shelby, Member

\_\_\_\_\_  
By: Katherine Locke, Member

Members of the Board of Public Works  
City of Greenfield, Indiana

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

ATTEST:

\_\_\_\_\_  
By: Lori Elmore, Clerk-Treasurer

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

**STATE OF INDIANA**  
**Indiana Department of Transportation**  
**Recommended for approval by:**

\_\_\_\_\_  
Clark W. Packer  
Greenfield District Deputy Commissioner  
Indiana Department of Transportation

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

**Executed By:**

\_\_\_\_\_ (for)  
Joseph McGuinness, Commissioner  
Indiana Department of Transportation

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



APPROVALS

STATE OF INDIANA  
State Budget Agency

By: \_\_\_\_\_ (FOR)  
Zachary Q. Jackson, Director

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

STATE OF INDIANA  
Department of Administration

By: \_\_\_\_\_ (FOR)  
Lesley A. Crane, Commissioner

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

Approved as to Form and Legality:  
Office of the Attorney General

By: \_\_\_\_\_ (FOR)  
Curtis T. Hill, Jr.  
Attorney General of Indiana

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

This instrument was prepared for the Indiana Department of Transportation, 100 N. Senate Avenue, Indianapolis, IN 46204, by the undersigned attorney.

\_\_\_\_\_  
Marjorie A. Millman, Attorney No. 21748-36