

**INTERLOCAL AGREEMENT FOR THE DEVELOPMENT
AND CONSTRUCTION OF A TRANSPORTATION CORRIDOR FROM THE
JEFFERSONVILLE PORT OF INDIANA THROUGH
THE RIVER RIDGE COMMERCE CENTER TO HIGHWAY 62**

EDS No. A249-14-

THIS INTERLOCAL COOPERATION AGREEMENT (the “**Agreement**”) is made and entered into pursuant to I.C. 36-1-7 on the dates shown alongside the signatories of the parties, by and between the following participants: (a) the Board of Commissioners of Clark County, Indiana (the “**County**”); (b) the Jeffersonville Redevelopment Commission, acting for and on behalf of the City of Jeffersonville, Indiana (the “**City**”); (c) the Ports of Indiana, a body corporate and politic existing under the laws of the State of Indiana (the “**POI**”), which owns, operates, and maintains the Port of Indiana – Jeffersonville (the “**Port**”) on behalf of the State of Indiana; (d) the River Ridge Development Authority (“**RRDA**”); and (e) the State of Indiana by and through its Department of Transportation (“**INDOT**”). When referred to collectively, the parties shall be referred to as the “**Parties**” or the “**Participating Parties**”.

RECITALS

WHEREAS, the Participating Parties wish to cooperate in order to meet the needs of each Participating Party to construct and plan for a new direct, multimodal transportation corridor including both road and railway (the “**Transportation Corridor**” as described herein) which among other things: (a) connects the Port to the new I-265/Old Salem Road interchange (constructed as a part of the East End Ohio River Bridge crossing) at New Middle Road as shown on Exhibit A (Route B) attached hereto; (b) traverses from the I-265/Old Salem Road interchange through the River Ridge Commerce Center (“**RRCC**”) to Highway 62; and (c) provides right of way for a direct rail connection between the rail facilities of the Port and the RRCC (the “**Project**”); and

WHEREAS, the RRCC in combination with the Port of Indiana-Jeffersonville represents one of the most significant economic development opportunities in the State of Indiana; and

WHEREAS, the Transportation Corridor links the Louisville region’s premier public port facility – Port of Indiana, Jeffersonville – with RRDA’s approximate 1,500 acres of prime industrial land (the “**Mega Site**”); and

WHEREAS, the Transportation Corridor will provide direct rail and heavy duty road access to one of the state’s and region’s most attractive sites for a large scale industrial and value-added manufacturing investment; and

WHEREAS, the Transportation Corridor’s will provide three distinct advantages to the Participating Parties and the communities and interests they serve: (a) the Project will be built to “heavy-haul” specifications which will enable users in both the Port and the RRCC to shuttle truck load commodities, including but not limited to steel, directly between the sites without

having to use other multipurpose public roadways; (b) the Project will offer a direct rail link between the Port and the RRDA's Mega Site, maximizing the value of both facilities; and (c) the Project will reduce industrial traffic at the I-265, State Road 62, and Port Road interchange, which will continue to see increased commercial and commuter traffic linked to projected growth at the RRCC and the Port; and

WHEREAS, the rail element of the Transportation Corridor provides direct rail access between the Port and the Mega Site and offers connectivity to multiple Class I Railroads; and

WHEREAS, the Project represents a unique partnership between the State of Indiana (Indiana Department of Transportation, Indiana Economic Development Corporation, Ports of Indiana), the Clark County Commissioners, the city of Jeffersonville Redevelopment Authority, and the River Ridge Development Authority; and

WHEREAS, the Project can only be completed to meet such need so long as each Participating Party named herein is willing to contribute funds and provide other services as agreed to herein; and

WHEREAS, the County has approved the Project and its contribution toward the cost of the Project, and has authorized execution of this Agreement by action taken by passing Resolution No. 11-2013; and

WHEREAS, the City has approved the Project and its contribution toward the cost of the Project, and has authorized execution of this Agreement by action taken as follows:
_____ ; and

WHEREAS, POI has approved the Project and its contribution toward the cost of the Project by action taken by unanimous vote of its Board of Directors on August 15, 2013; and

WHEREAS, INDOT has approved the Project and its contribution toward the cost of the Project, and has undertaken such activities as preliminary engineering, design, and right of way acquisition, and has initiated the process of obtaining necessary federal funding approvals for the Project; and

WHEREAS, the RRDA has approved participation in the Project and its contribution toward the cost of the Project by passage of Resolution No. 31-2013 adopted by its Board of Directors on June 5, 2013 and amended by Resolution No. 31A-2013 adopted by its Board of Directors on November 18, 2013; and

WHEREAS, the Participating Parties believe construction of the Project will: (a) promote and sustain economic development and growth for Jeffersonville, all communities in Clark County and the entire region; (b) provide infrastructure needed to attract new commerce and industry; (c) promote the creation of new jobs and sustain existing jobs; and (d) serve the best interest of the public;

NOW, THEREFORE, in consideration of the foregoing and the covenants contained

herein it is agreed by the parties as follows:

1.1. Recitals Incorporated. The recitals contained above shall be, and are hereby, incorporated herein by reference as an integral and substantive part of this Agreement.

1.2. Purpose. The purposes of this Interlocal Agreement are as follows:

- A.** To identify the respective rights, duties and obligations of the Participating Parties to the funding, development, control, operation and maintenance of the segments of the Project;
- B.** To develop a quality Project and quality infrastructure sufficient to promote, encourage and serve the economic development needs of the area;
- C.** To establish which Participating Party will be responsible for operation and maintenance of the improved roads and rail for both segments of the Project, and to determine which Participating Party will be responsible for maintaining all bridges within the Project on its bridge/road inventory after the Project is completed;
- D.** To do all things necessary to have the Project roadways functionally classified;
- E.** To identify which Participating Party will accept certain segments of the Project into its road inventory and/or rail inventory, thereby incurring all responsibility to maintain and regulate such segments of the roadway and rail; and
- F.** To pledge cooperation between and among the Participating Parties that each will deal with one another honestly, fairly and in good faith to protect and promote the optimal economic development and job creation benefits of this Agreement and to act in good faith to grant such consents and approvals as is reasonable and necessary to: (i) commence construction of the Project as quickly as possible (even if it means commencing separate segments of the Project at different times), (ii) agree as to the best, most advantageous and economically feasible location for the Project and road alignment of the Project, (iii) to pledge and dedicate such segments of the Project as a public right-of-way as may be required to qualify for and secure federal funding for the Project, and (iv) to take all reasonable actions necessary to see that the segments of Project are approved by necessary units and agencies of each Participating Party.

1.3. Manner of Financing, Staffing and Supplying the Joint Undertaking.

- A. Project Segments.** For purposes of this Agreement, the Project shall be divided into two road segments and the rail elements of the Transportation Corridor.
 - (i)** Segment A is defined as that portion of the Project and the appurtenances thereto from POI to the INDOT right-of-way line on the south side of the I-265/Salem Road interchange with a termination point at the Port of Indiana, Jeffersonville and with a tie into New Middle Road shown as Route B on **Exhibit A** (attached

and herein incorporated by reference) and identified as the “Port Transferred Road”.

- (ii.) Segment B is defined as that portion of the Project and all appurtenances thereto beginning at the southern RRCC boundary traversing through the RRCC to the RRCC boundary along Highway 62 along a route as close as possible to that shown in **Exhibit B** (attached and herein incorporated by reference).
- (iii.) The initial estimated cost of the Project is **\$22,500,000.00**. The Parties understand that this figure is based on preliminary estimates (including costs of right-of-way engineering and acquisition, utility relocation, design and construction), and is subject to change as final design is completed and the Project is let.
- (iv.) As it relates to the rail element of Transportation Corridor, the Participating Parties acknowledge and agree that the Project will include acquisition of all rail right of way needed for the rail elements of the Transportation Corridor including those areas which are not near or adjacent to the roadway segments of the Project, environmental work (including required NEPA studies and permits), right-of-way engineering and field engineering work sufficient to delineate in detail the route of the rail connection between the Port to the direct or approximate connection point to the Mega Site at the RRCC. Further, the Parties acknowledge and agree that any additional work related to the construction of the rail element, such as sub-grade design and construction, and design engineering of track, overpasses and creek/stream crossing shall only be performed if excess, eligible funds are available after the contract for construction of the roadway portion of the Project is let. (The Parties understand that the federal-aid highway funds to be provided by INDOT and the County under Sections 1.3(B)(i) and 1.3(B)(v) of this Agreement are not eligible for any use related to the rail elements; but that other Project funds are anticipated to be available to fund rail elements of the Project.)
- (v.) The Participating Parties agree to allocate ten percent (10%) of the estimated cost of Segment A for change orders, unforeseen subsurface conditions, and other contingencies. The parties agree to allocate ten percent (10%) of the estimated cost of Segment B for change orders, unforeseen subsurface conditions, and other contingencies.

B. Participating-Party Contributions and Responsibilities. The Participating Parties pledge to one another to make the following contributions and commitments to the Project and that the amounts stated as follows shall be and are hereby encumbered or otherwise allocated for the Project:

- (i.) **County Contributions.** The County pledges and encumbers funds in an amount not to exceed **\$2,400,000.00** to be used for the preliminary design and engineering of, right-of-way acquisition for, and construction and development of the Project. The County shall pay **\$250,000.00** from local (non-federal) funding sources to INDOT no later

than March 31, 2014. The balance of the County's contribution, or **\$2,150,000.00**, shall be transferred to INDOT from federal funds made available to the County under a Road Transfer Agreement (EDS No. A249-12-320838). This transfer shall occur upon full execution of this Agreement. In addition, the County pledges to maintain any and all bridges constructed as part of the Project provided that said bridges will be placed into the county's bridge inventory and be eligible for Cumulative Bridge Fund monies levied by the County.

(ii.) City Contributions.

(1.) The City pledges and encumbers funds in an amount not to exceed **\$2,600,000.00** from local, non-federal funding sources to be used for the preliminary design and engineering of, right-of-way acquisition for, and construction and development of the Project. The City's funding contribution shall be paid in equal installments of over three (3) consecutive years, with the first two (2) payments of **\$866,666.66** being due by no later than December 31st of each year, beginning with 2013; and the final payment of **\$866,666.67** being due by no later than November 9, 2015.

(2.) The City hereby grants permission to INDOT to enter upon, to construct the Project, and to take any other action necessary in furtherance of the Project, on property owned by or dedicated to the City as public right-of-way, including that property dedicated and/or transferred to the City from the RRDA under Section 1.3(B)(iv)(5) of this Agreement.

(iii.) POI Contributions.

(1.) POI shall provide a preliminary engineering study to be provided by American Structurepoint, Inc. ("Structurepoint"), which shall be used as a guide for final design and alignment for Segment A of the Project.

(2.) In addition, POI agrees to contribute to the Project by making a one-time lump sum payment to INDOT in the amount of **\$250,000.00** no later than January 31, 2015, which amount is intended to apply to Project costs, such as preliminary design and engineering of, right-of-way acquisition for, and construction and development of the Project.

(3.) After construction is complete, POI agrees to operate and maintain that portion of Segment A delineated as Port Transferred Road on **Exhibit A** attached hereto in accordance with the terms of Section 1.8 of this Agreement.

(iv.) RRDA Contributions.

(1.) The RRDA shall provide a preliminary engineering study completed by Jacobi, Toombs & Lanz (JTL) and Bernardin Lochmueller & Associates

(BL&A) which shall be used as a guide for final design and alignment for Segment B.

- (2.) In accordance with the JTL/BL&A preliminary design and alignment RRDA shall complete construction of approximately 1,000 linear feet of roadway at the location commencing where Logistics Drive and Trey Street converge as shown on **Exhibit B** (the "First Phase Construction") on or before December 31, 2014. Costs for the First Phase Construction will be credited towards RRDA's monetary pledge herein on a prorated basis by computing the costs per linear foot of the First Phase Construction in proportion to the costs per linear foot for the remaining portions of roadway of the Project.
- (3.) The RRDA pledges and encumbers funds for the Project in an amount not to exceed, **\$6,000,000.00** (including the prorated credit for construction of the First Phase Construction). Except as provided in Section 1.3(C), RRDA shall pay the difference between its **\$6,000,000.00** pledge and the prorated cost of the First Phase Construction to INDOT under Section 1.3(B)(v)(3) on or before November 9, 2015.
- (4.) After construction of the Project is complete, RRDA will enter into an agreement with the City to operate and maintain Segment B delineated in **Exhibit B** attached hereto in accordance with the terms of Section 1.8 of this Agreement.
- (5.) Additionally, RRDA shall dedicate the Segment B portion of the roadway to public use and/or transfer the property needed for construction of Segment B to the City of Jeffersonville in order to allow the roadway to be functionally classified as required in Section 1.7 herein. The dedication and transfer of all property interests required for Segment B must be effected no later than six (6) months prior to letting of the contract for construction of the Project, which is currently anticipated to be December 9, 2015.

(v.) INDOT Contributions.

- (1.) INDOT shall make available federal-aid highway funds in an amount not to exceed **\$11,250,000.00** for the Project to apply to the preliminary design and engineering, development, and construction of Segments A and B of the Project.
- (2.) INDOT further pledges to give good faith and due consideration to the preliminary engineering studies of JTL, BL&A and Structurepoint in making final decisions about the design criteria and road alignment of Segments A and B of the Project and the rail elements of the Transportation Corridor.
- (3.) INDOT shall hold the funds provided by the Participating Parties in a dedicated, non-reverting fund established by INDOT for the sole and

exclusive purpose of fulfilling the intent, purpose, and obligations of this Agreement. This fund shall be managed and accounted for in accordance with INDOT's usual and ordinary procedures, which include any applicable requirements imposed by the Federal Highway Administration and the Indiana Office of Management and Budget. INDOT shall provide the Participating Parties a full and complete accounting of how the funds are used in furtherance of the Project on a semiannual basis. Nothing herein shall in any way limit INDOT's ability to manage funds dedicated to the Project; however, subject to re-scoping and all other provisions of this Agreement, INDOT will use its best efforts to manage funds available for the Project in such a way that eligible funds will be available to purchase the entire right of way needed for the rail corridor.

- (4.) The contracts for design, engineering, right-of-way or land acquisition, and construction shall be let and awarded by INDOT in accordance with state and federal law, regulations and standards. If all construction bids and all other project costs together exceed \$22,500,000.00 and the scope of the Project must be scaled back, INDOT pledges that the Project will be re-scoped with the input of all of the Participating Parties as contemplated in subsections 1.3(D) and (E) below.
- (5.) The existing connection of the Old Salem Road improvements to Patrol Road will be removed and replaced by INDOT as necessary to realign the constructed connection to the River Ridge Commerce Center to the typical crowned road section of the Old Salem Road improvements.
- (6.) Subject to all other terms of this Agreement, INDOT shall make every reasonable and good faith effort to complete Segment B contemporaneously with the completion of Section 6 of the Indiana Approach to the Ohio River Bridges Project.

C. Refund upon Early Termination. If for any reason the Project is abandoned, commenced but never completed, or otherwise terminated prematurely, all funds remaining in the account(s) shall be returned to each Participating Party which contributed thereto on an exact pro rata basis. In the event that RRDA completes the First Phase Construction prior to any event of early termination, RRDA's obligation to make the First Phase Construction functionally classified under Section 1.7 below shall terminate with the early Project termination or abandonment event.

D. Engineering Cost Estimates in Excess of Pledged Amounts. If, after the completion of engineering and design, the initial cost estimate of the Project exceeds the amount pledged under this Agreement, the Participating Parties shall meet to determine the best way to proceed with the Project – whether to solicit construction bids despite such cost estimates, whether to solicit construction bids with alternates, or whether to reduce the scale and/or scope of the Project before soliciting construction bids.

E. Construction Bids in Excess of Pledged Amounts. If the total Project costs, including construction bids and all other Project costs, exceed the \$22,500,000.00 amount allocated for the Project, the entire Project will be re-scoped with the input of all Participating Parties with consideration of state and federal transportation, infrastructure and economic development interests in mind. However, the final revised project scope shall be determined by INDOT. Due to the significant economic development and jobs-creation potential to market and develop the Mega Site within the RRCC in the area of the I-265/Salem Road interchange, the Participating Parties acknowledge that the RRCC entrance is of critical importance, should be scaled back only as a matter of last resort, and if it must be scaled back it will be done in such a way that the design, configuration, alignment and connectivity features of the preliminary engineering report of JTL and BL&A can be accomplished in the future. For purposes of clarity and to avoid misunderstanding, if the RRCC entrance must be scaled back as a matter of last resort it will be done in such a way that the JTL and BL&A design can be constructed in the future without need to alter, destroy or demolish the scaled-back connection/entrance as completed in the Project.

In the alternative, if the total of the construction bids and all other costs of the Project and/or Segments A or B exceeds the amount of \$22,500,000.00, this Agreement may be amended or modified so that each Participating Party, at its sole option, may opt to complete a segment of interest to such Participating Party by paying all the cost overruns (or part of the cost overruns with other willing Participating Parties) for that Segment. However, no Participating Party shall prevent any other Participating Party from contributing additional funds to the Project.

F. Construction Bids Less Than Pledged Amounts. In the event the Project's construction bids indicate a surplus (i.e. in excess of Project work contemplated in Section 1.3(A) above), any such eligible, non-federal, surplus funds will be applied to further advance the rail corridor in the following order of ranked priority: right of way acquisition, sub-grade design and construction, and design engineering of rail track, rail overpasses, and rail creek and stream crossings. Any funds contributed for the Project by INDOT or Clark County cannot be used for this purpose, but other Project funds (if excess) may be available and used for such purposes.

G. Project Delays. In the event that the Project completion is delayed beyond the date that all sections (Sections 4, 5, and 6) of the East End ORB (I-265) Project are opened to traffic (currently proposed for October, 2016), INDOT will act in good faith to assist in creation of temporary, interim connectivity from the entrance into the RRCC to State Road 62 until the Project is completed.

H. Steering Committee. Each Participating Party shall appoint a representative of its choice to a steering committee which shall meet as needed to review, discuss, and/or consider the scope and scale of the Project, selection of consultant(s) and contractor(s), change orders for the Project, revisions of Project plans, and any and all INDOT decisions which have a material effect upon the overall Project and/or the separate Segments of the Project. All steering committee recommendations shall be guided by, but are not limited to, the preliminary engineering studies prepared by Structurepoint for Segment A and prepared by

JTL and BL&A for Segment B. Each Participating Party may name a different representative to the steering committee for each steering committee meeting, as each committee meeting topic may require the input of different experts. Representatives to the steering committee will deal with one another honestly, fairly and in good faith, so as to protect and promote the optimal economic development and job creation benefits of the Project. However, in no event shall any decision or recommendation of the Steering Committee be construed to obligate INDOT to undertake any action contrary to state or federal law, regulation or policy.

I. Right of Inspection. Each Participating Party shall have the right to inspect the Project while under construction upon twenty-four (24) hours advanced notice to the INDOT contacts listed in Section 2.13 of this Agreement, and to the Contractor selected to construct the Project. Upon arrival at the Project site, representatives of the Participating Parties shall check in with appropriate INDOT or Contractor project managers or engineers, and shall comply with any safety measures or directions given by INDOT personnel or Contractor staff while on the Project site.

1.4. Term and Termination. This Agreement shall remain in full force and effect from the time it is fully executed (including approval by the Office of the Attorney General) for twenty (20) years, unless earlier terminated as provided herein, by judicial decree, or by operation of law. Except for any provisions herein which survive the completion of the Project, this Agreement shall be terminated:

- A. When the Project is abandoned by INDOT; or
- B. Twenty (20) years after completion of the Project; or
- C. When the Agreement is deemed terminated by operation of Indiana state statute;

Whichever occurs first.

1.5. Disposing Of Property upon Termination. Except as provided in Section 1.3(C), Participating Parties acknowledge and agree that ownership of underlying real estate shall not be transferred as a result of termination.

1.6. Administration of the Project. INDOT shall administer the Project in consultation with the steering committee during its planning and construction phases and shall coordinate the Project with the INDOT project at Old Salem Road in Utica (Des. No. 1382057). INDOT shall administer the Project with due consideration for the design criteria, design requirements, and road alignment set out in the preliminary engineering study of Structurepoint with regard to Segment A and with due consideration for the design criteria, design requirements, and road alignment set out in the preliminary engineering study of JTL and BL&A with regard to Segment B. INDOT shall administer and approve all change orders and shall provide the Participating Parties with copies of same by email, fax or other immediate form of notification. After consultation with the steering committee, INDOT shall make all final decisions with regard to the Project.

1.7. Functional Classification. Each Participating Party shall do all things required to make the Project functionally classified for federal funding, including the dedication of the road right-of-way to the public.

1.8. Control and Responsibility after Completion of the Project.

A. Port Transferred Road. Upon final completion of the Project, INDOT shall transfer and POI shall accept all responsibility for the operation and maintenance of the road improvements constructed as part of Segment A of the Project within that area delineated as POI's responsibility on **Exhibit A** ("Port Transferred Road"). This transfer shall be memorialized in a separate written agreement to be entered into by POI and INDOT no later than completion of construction of the Project (the "Transfer Agreement"). The Transfer Agreement will not provide for any transfer of funds or other consideration from INDOT to POI. Upon execution, the Transfer Agreement shall be recorded in the Office of the Recorder of Clark County. Under the Transfer Agreement, operation and maintenance responsibilities transferred to POI shall include snow removal, mowing, road repair and maintenance of road surfaces, traffic safety and control, regulation and permitting of curb cuts, billboards, and signage, and storm water drainage. The Port Transferred Road shall be subject to rules and regulations promulgated by POI for the use and operation of port roads and codified at 130 IAC 3-1 et seq., as may be amended from time to time. POI and INDOT further acknowledge and agree that fee title interest to all real estate underlying the POI Transferred Road shall remain in the name of the State of Indiana. INDOT shall transfer and POI shall accept responsibility for the operation and maintenance of the rail corridor acquired as part of the Project, which it will operate in accordance with its statutory and regulatory authority.

B. Segment B. Upon final completion of the Project, INDOT shall transfer and the City shall accept all responsibility for maintenance, operation and regulation of the road improvements constructed as part of Segment B of the Project, as shown in **Exhibit B**. This transfer shall be memorialized in a separate written agreement to be entered into by the City and INDOT no later than completion of construction of the Project (the "Transfer Agreement"). The Transfer Agreement will not provide for any transfer of funds or other consideration from INDOT to the City. Upon execution, the Transfer Agreement shall be recorded in the Office of the Recorder of Clark County. The City and the RRDA shall enter into an agreement providing that the RRDA shall assume responsibility for the maintenance and upkeep of Segment B of the Project, including snow removal, road repair, road maintenance, installation of traffic signs and signals, installation of new street lights, maintenance of Project-installed street lights, drainage, approval of curb cuts, regulation of or prohibitions against billboards, signage standards, and speed limits within Segment B of the Project.

C. Bridges. Upon final completion of the Project any and all bridges constructed as a part of the Project shall be listed in the County's bridge/road inventory.

D. Law Enforcement. Jurisdiction over law enforcement and police protection shall be governed by the laws of the State of Indiana.

1.9. Prerequisites to This Agreement Taking Effect. To the extent required by Ind. Code §36-1-7-10, §4-13-2-14.1 and §4-13-2-14.3, this Agreement shall have no effect until the following conditions are met:

- (a) It is approved by the fiscal body of each Participating Party that is required to give approval under Ind. Code §36-1-7-10;
- (b) It is recorded with the county recorder;
- (c) It is filed with the executive of the City;
- (d) It is filed with the auditor of the County;
- (e) It is filed with the auditor of the state of Indiana;
- (f) All other requirements of Ind. Code §36-1-7 have been met; and
- (g) The Agreement is approved by the Office of the Attorney General.

1.10. Filing with State Board of Accounts. Pursuant to Ind. Code § 36-1-7-6, not later than sixty (60) days after it takes effect, this Agreement must be filed with the Indiana State Board of Accounts for audit purposes. The City shall file or ensure that the Agreement is filed with the State Board of Accounts.

1.11. Permits Issued for the Project. For the sake of clarity and to avoid misunderstandings, each Participating Party, except for INDOT and POI, which pursuant to law are prohibited from granting any indemnification, agrees to indemnify, defend and hold the others harmless from all claims or liability arising in relation to any permits issued by it to perform work on the Project. Each Participating Party which issues a permit shall be responsible for conducting all inspections related to permits issued by it.

II. GENERAL PROVISIONS.

2.1. Access to Records. The Participating Parties shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Agreement, and shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for ten (10) years from the date of final payment under the terms of this Agreement, for inspection or audit by all other Participating Parties, or its authorized representative, and copies thereof shall be furnished free of charge, if requested by all other Participating Parties. The Participating Parties agree that, upon request by any agency participating in federally-assisted programs with whom the Participating Parties has agreed to or seeks to agree to, all other Participating Parties may release or make available to the agency any working papers from an audit performed by all other Participating Parties of the Participating Parties in connection with this Agreement, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2.2. Audit. The Participating Parties acknowledge that each may be required by any other to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in

accordance with IC 5-11-1, et. seq. and audit guidelines (including applicable provisions of the Office of Management and Budget Circulars A-133, Audits of States, Local Governments, and Non-Profit Organizations) specified by the State and/or in accordance with audit requirements specified elsewhere in this Agreement.

2.3. Authority to Bind. The signatory for each Participating Party warrants that he/she has the necessary authority to enter into this Agreement. The signatory for each Participating Party represents that he/she has been duly authorized to execute this Agreement on behalf of his/her Participating Party, and has obtained all necessary or applicable approval to make this Agreement fully binding upon the Participating Parties when his/her signature is affixed to this Agreement.

2.4. Certification for Federal-Aid Contracts Lobbying Activities. The Participating Party certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that it 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 Participating Parties, 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.

2.5. Compliance with Laws.

A. Each Participating Party 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 of any state or federal statute, or the promulgation of regulations there under, after execution of this Agreement shall be reviewed by the Participating Parties to determine whether formal modifications are required to the provisions of this Agreement.

B. Each Participating Party 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 Participating Party is not familiar with these ethical requirements, the Participating Party should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If any Participating Party or its agents violate any applicable ethical standards, any other Participating Party may, at its sole discretion, terminate this Agreement immediately upon notice to the other Participating Parties. In addition, an offending

Participating Party may be subject to penalties under Indiana Code §§ 4-2-6 and 4-2-7, and under any other applicable state or federal laws.

C. Each Participating Party certifies by entering into this Agreement, that it is not presently in arrears in payment of any permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. Further, each Participating Party agrees that any payments in arrears and currently due to the State of Indiana may be withheld from payments due to it. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Participating Party becomes current in its payments and has submitted proof of such payment to the other Participating Parties.

D. As required by IC 5-22-3-7: (1) Each Participating Party and its principals certify that (A) except for de minimus and nonsystematic violations, it 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 Participating Party 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) Each Participating Party and its principals certify that an affiliate or principal of the Participating Party and any agent acting on behalf of the Participating Party or on behalf of an affiliate or principal of the Participating Party (A) except for de minimis and nonsystematic violations, 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.

E. As required by IC §5-22-16.5, the Participating Party certifies that the Participating Party is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC §5-22-16.5-14 including termination of this Agreement, denial of future state contracts, as well as an imposition of a civil penalty.

Each Participating Party affirms that, if it is an entity described in Title 23 of the Indiana Code, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

2.6. Drug-Free Workplace Certification. Each Participating Party hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the other Participating Parties and the Indiana Department of Administration within ten (10) days after receiving actual notice that an employee of the Participating Party in the State of Indiana has been convicted of a criminal drug violation occurring in the Participating Parties' workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Agreement payments, termination of the Agreement 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 Agreement amount set forth in this Agreement is in excess of \$25,000.00, each Participating Party hereby further agrees that this Agreement 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 Indiana Department of Administration is requiring the inclusion of this certification in all agreements with and grants from the State of Indiana in excess of \$25,000.00. No award of an agreement shall be made, and no purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Participating Party and made a part of the agreement as part of the executed contract.

The Participating Party certifies and agrees that it will provide a drug-free workplace by:

a. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Participating Parties 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 Participating Parties 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 Participating Party of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

d. Notifying in writing the State 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) 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

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

2.7. Employment Eligibility Verification.

a. The Participating Party affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

b. The Contractor(s) who are awarded contracts for the Project shall be required to enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

c. Such Contractor(s) may not knowingly employ or contract with an unauthorized alien and may not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

d. Such Contractor(s) shall be required to require his/her/its subcontractors who perform work on construction of the Project to certify to the Contractor 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 Contractor(s) will be required to agree to maintain this certification throughout the duration of the term of a contract with a subcontractor.

e. The Participating Parties may terminate any Contractor contracts for default if the Contractor fails to cure a breach of these provisions no later than thirty (30) days after being notified of such breach.

2.8. Force Majeure. In the event either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of reasons, events or causes beyond that party's reasonable control and occurring without its fault or negligence, due to industry wide strikes or other labor troubles, unusual shortages of labor and materials, war or other national emergency, delays in transportation, accidents, fire, 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 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.

2.9. Funding Cancellation Clause. In the event the Director of the Indiana Office of Management and Budget makes a written determination on or before June 30, 2015 that funds are not appropriated or otherwise available to support continuation of Indiana's performance of its obligations under this Agreement, this Agreement shall be canceled. A determination by either Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

2.12. Governing Law and Mediation. This Agreement 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. Prior to filing any lawsuit, the Parties agree that all disputes shall be submitted to mediation, which may be mediated by any registered mediator or Indiana Senior Judge or retired Indiana judge in good standing, as agreed upon by the Participating Parties. In the event that the

Participating Parties are unable to unanimously agree upon a mediator one may be selected by majority vote of the Participating Parties.

2.13. Non-Discrimination.

A. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the Participating Party, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, 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 Agreement. Acceptance of this Agreement 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.

B. The Participating Party understands that INDOT is a recipient of Federal Funds. Pursuant to that understanding, the Participating Party, agrees that if the Participating Party employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, the Participating Party will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Participating Party 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 Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

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

- (i.) Compliance with Regulations: The Participating Party 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.
- (ii.) Nondiscrimination: The Participating Party, with regard to the work performed by it during the Agreement, 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 Participating Party shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

- (iii.) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Participating Party 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 Participating Party of the Participating Party's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
- (iv.) Information and Reports: The Participating Party 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 Participating Party is in the exclusive possession of another who fails or refuses furnish this information, the Participating Party 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.
- (v.) Sanctions for Noncompliance: In the event of the Participating Party'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 Participating Party under the Agreement until the Participating Party complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (vi.) Incorporation of Provisions: INDOT shall include the provisions of subparagraphs (C)(i) through (C)(vi) of this Section in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

2.14. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised of a change of address:

A. For INDOT:

Tim Muench, Project Manager
Indiana Department of Transportation
100 N. Senate Ave., Room N642
Indianapolis, IN 46204
(317)232-5245
tmuench@indot.in.gov

With Copy to: Tony McClellan, District Deputy Commissioner
INDOT Seymour District
185 Agrico Lane
Seymour, IN 47274
(812)524-3702
tmcclellan@indot.in.gov

B. For RRDA:

Executive Director
River Ridge Development Authority
6200 E. Highway 62, Suite 600
Jeffersonville, Indiana 47130
Jerry@RiverRidgeCC.com
Fax No.: 812.285.8983

C. For County:

General Counsel
Clark County Government
501 East Court Ave. Room 406
Jeffersonville, IN 47130
Office: (812)-285-6275
Fax: (812)-285-6366

D. For City:

Mayor Mike Moore
500 Quartermaster Court
Jeffersonville, IN 47130

E. For POI:

Scott Stewart
Port of Indiana-Jeffersonville
1402 Port Road
Jeffersonville, IN 47130
Phone: (812) 283-9662
Fax: (812) 282-7505

2.15. 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.

2.16. Status of Claims. Each Participating Party shall be responsible for keeping all other Participating Parties currently advised as to the status of any claims made for damages against it resulting from services performed under this Agreement.

2.17. General. This Agreement represents the entire understanding between the Participating 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 and be signed by duly authorized representatives of the Participating Parties. Neither this Agreement nor any portions of it may be assigned, licensed or otherwise transferred by any Participating Party without the prior written consent of all other Participating Parties. This Agreement will be binding upon the Participating Parties and their permitted successors or assigns. Failure of a Participating 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.

2.18. Headings. The headings are inserted for convenience only and do not constitute part of this Agreement.

2.19. Construction. This Agreement shall not be construed more strictly against one party than against any other party merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all Participating Parties have contributed substantially and materially to the preparation of this Agreement.

[Remainder of Page Intentionally Left Blank]

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury that he/she is the properly authorized representative, agent, member or officer of the Participating Party, that he/she has not, nor has any other member, employee, representative, agent or officer of the Participating Party, directly or indirectly, to the best of the undersigned's 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 Agreement other than that which appears upon the face of this Agreement.

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

CITY OF JEFFERSONVILLE

Mike Moore
Mayor

President, City Council

STATE OF INDIANA)
)SS:
CITY OF: _____)

Before me, a Notary Public in and for said CITY and State personally appeared _____,
_____ of the City of Jeffersonville, Indiana, who acknowledged the execution of the foregoing road
transfer agreement on this _____ day of _____, 20__.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed)

My Commission expires: _____

My place of Residence is: _____

**CLARK COUNTY
BOARD OF COMMISSIONERS**

Jack Coffman
Jack Coffman, President

Rick Stephenson
Rick Stephenson, Vice President

John Perkins
John Perkins

Attest:

R. Marty Richey

12-19-13
DATE

STATE OF INDIANA)
)SS:
CITY OF: Jeffersonville)

Before me, a Notary Public in and for said CITY and State personally appeared J. Coffman, R. Stephenson, & J. Perkins of the BOARD OF COMMISSIONERS OF CLARK COUNTY, Indiana, who acknowledged the execution of the foregoing road transfer agreement on this 19th day of December, 20 13.

Allison L. Richey
NOTARY PUBLIC (signature)

Allison L. Richey
NOTARY PUBLIC (printed)

My Commission expires: April 24, 2019

My place of Residence is: Clark Co., IN



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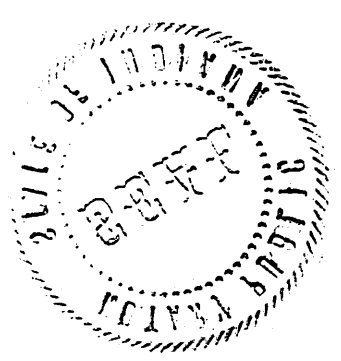
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RIVER RIDGE DEVELOPMENT AUTHORITY

Jerry G. Acy
Executive Director

STATE OF INDIANA)
)SS:
CITY OF: _____)

Before me, a Notary Public in and for said CITY and State personally appeared _____,
_____ of the RIVER RIDGE DEVELOPMENT AUTHORITY, who acknowledged the execution of the
foregoing road transfer agreement on this _____ day of _____, 20__.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed)

My Commission expires: _____

My place of Residence is: _____

PORTS OF INDIANA

Greg Gibson, Commissioner

ATTEST:

Jay K. Potesta, Secretary - Treasurer

Date

STATE OF INDIANA)
)SS:
CITY OF: _____)

Before me, a Notary Public in and for said CITY and State personally appeared _____,
_____ of the PORTS OF INDIANA, who acknowledged the execution of the foregoing road transfer
agreement on this _____ day of _____, 20__.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed)

My Commission expires: _____

My place of Residence is: _____

STATE OF INDIANA
Department of Transportation

_____ (for)
Karl B. Browning, Commissioner

Date: _____

STATE OF INDIANA)
)SS:
CITY OF: _____)

Before me, a Notary Public in and for said CITY and State personally appeared _____,
_____ of the INDIANA DEPARTMENT OF TRANSPORTATION, who acknowledged the execution of
the foregoing road transfer agreement on this _____ day of _____, 20__.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed)

My Commission expires: _____

My place of Residence is: _____

APPROVALS

STATE OF INDIANA
State Budget Agency

Brian E. Bailey, Director

Date: _____

STATE OF INDIANA
Department of Administration

Jessica Robertson, Commissioner

Date: _____

Approved as to Form and Legality:

_____ (for)
Attorney General Gregory F. Zoeller

Date Approved: _____

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

By _____

This instrument prepared by:

Jennifer L. Jansen
Attorney at Law

Attorney No.