

INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY

PROJECT COORDINATION CONTRACT

CONTRACT #00000000000000000000102024

Des. No.: 2501453

UEI #: KQKUYB6LMPY7

CFDA No.: 20.205

This Contract (hereinafter referred to as "**Contract**") is entered into by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as "**INDOT**"), and the **FULTON COUNTY**, a local public agency in the State of Indiana (hereinafter referred to as the "**LPA**"), and 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:

NOTICE TO PARTIES

A. i. Whenever any notice, statement, request, consent or other communication is required under this Contract (each, a "Notice"), it shall be effective only if it is in writing and: (a) personally delivered; or (b) sent by: (I) email; (II) first class U.S. mail service; or (III) a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid; to the following addresses, or to such other address or addresses as shall be furnished in writing by any party to the other party.

ii. Notice to INDOT, regarding contract provisions shall be sent to:

Office of LPA and Grant Administration
Attention: Director of LPA and Grant Administration
100 North Senate Avenue, Room N758-LPA
Indianapolis, Indiana 46204

With a copy to:

Chief Legal Counsel and Deputy Commissioner
Indiana Department of Transportation
100 North Senate Avenue, Room N758-Legal
Indianapolis, Indiana 46204

iii. Notices to INDOT regarding project management shall be sent to respective District Office:

INDOT LaPorte District
315 East Boyd Boulevard
LaPorte, Indiana 46350

iv. Notices to the LPA shall be sent to:

Fulton County
1037 South State Road 25
Rochester, Indiana 46975

v. Unless the sending Party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (a) when personally delivered; (b) when sent in the case of an email properly addressed; (c) three (3) days after the date deposited with the United States mail properly addressed; or (d) the next day when delivered during business

hours to an overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The PARTIES acknowledge that Notices delivered by facsimile shall not be effective.

B. As required by IC § 4-13-2-14.8, payments to the LPA shall be made via electronic funds transfer in accordance with instructions filed by the LPA with the Indiana State Comptroller.

RECITALS

WHEREAS, the LPA has submitted an application to receive federal funds for the project described in **Attachment A** (the "Project"), which is attached herein and made an integral part of this Contract; and

WHEREAS, INDOT has approved of the LPA's application for federal funding, and the PARTIES desire to enter into this Contract to establish the responsibilities for the Project; and

WHEREAS, the LPA shall be responsible for its share of the Project cost as stated in this Contract, and

WHEREAS, the LPA desires to expedite delivery of the Project, comply with all federal requirements and fiscally manage the Project; and

WHEREAS, the PARTIES have determined the Project is in the best interests of the citizens of the State of Indiana; and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

I PROJECT DESCRIPTION.

1.1. The Parties are entering into this Contract to complete the Project described as follows:

Des. No. **2501453**

Type of Project: **Bridge Replacement**

General Scope/Location: **0.70 miles S of CR 400 S, Section(s) 4 & 5, T-29-N, R-1-E, Wayne Township, Fulton County**

II LPA RESPONSIBILITIES.

2.1. The LPA shall complete the Project in accordance with INDOT's Design Manual (See <https://www.in.gov/indot/doing-business-with-indot/consultants/designers/>) and all pertinent state and federal laws, regulations, policies and guidance, including the INDOT's LPA Guidance Document (See <https://www.in.gov/indot/doing-business-with-indot/local-public-agency-programs/>). The LPA or its consultant shall prepare the environmental document(s) for the Project in accordance with INDOT's Environmental Manual (See <https://www.in.gov/indot/engineering/environmental-services/>). Land acquisition for the Project by the LPA or its consultant shall be in accordance with INDOT's Real Estate Manuals (See <https://www.in.gov/indot/resources/manuals/real-estate-manual-and-resources/>).

- 2.2. The LPA shall select the consultant in accordance with INDOT's consultant selection procedure for the consultant services to be eligible for federal funding or federal credits.
- 2.3. If the LPA contracts with a consultant, contractor, or other agent to complete work on the Project, the LPA may use either the "LPA-CONSULTANT Agreement", which is found at <https://www.in.gov/indot/doing-business-with-indot/local-public-agency-programs/lpa-consultant-selection/local-public-agency-program-consultant-information/>, or an agreement that has been reviewed and approved by INDOT.
- 2.4. The LPA shall provide all relevant documents including, but not limited to, all plans, specifications, and special provisions, to INDOT for its review. Upon INDOT's review, the LPA shall modify the submittal in accordance with INDOT's modifications or comments, if any. If the LPA fails to provide a submittal, untimely provides the submittal, or the submittal is not approvable, the schedule, cost, and federal funds for the Project may be jeopardized.
- 2.5. The LPA shall complete all right-of-way acquisition, utility coordination and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
- 2.6. If the LPA fails to meet any of the requirements of Sections 2.1, 2.2, 2.4, or 2.5 above, INDOT will not let the construction Project. If INDOT, and FHWA where necessary, approve LPA's submittals, INDOT shall schedule the Project for letting at the next reasonable date.
- 2.7. The cost of the invoice of the construction, utility, and/or railroad work shall be paid by the LPA no later than thirty (30) calendar days from the date of letting.
- 2.8. The LPA shall make timely payments of costs to INDOT to avoid delays and increased costs to the Project. If the LPA fails to make timely payments of the full amount invoiced by INDOT, within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of **Attachment A**, which is attached hereto and incorporated herein by reference, and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
- 2.9. The LPA shall be responsible for all costs associated with additional provisions and/or expenses in excess of the federal funds allocated to the Project. The LPA, in conjunction with FHWA (if applicable) and INDOT shall review and approve all change orders submitted by the field Project Engineer/Supervisor, and such approvals shall not be unreasonably withheld.
- 2.10. The LPA shall provide competent and adequate engineering, testing, and inspection service to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this Section are deemed to be incompetent, inadequate or are otherwise insufficient, or if a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the services or replace the engineers or inspectors providing these services at the sole expense of the LPA.
 - 2.10.1. If project inspection will be provided by full-time LPA employees, the personnel must be employees of the LPA. Temporary employment or retainage-based payments are not permissible. INDOT must pre-approve, in writing, the LPA's personnel. Only costs incurred after INDOT's written notice to proceed to the LPA shall be eligible for federal-aid participation. All claims for federal aid shall be submitted to the District office, referenced on Page 1 of the Contract for payment.
 - 2.10.2. If project inspection will be provided by the LPA's consultant, INDOT must approve, in writing, the consultant personnel prior to their assignment to the Project. The LPA shall

execute a contract with a consultant setting forth the scope of work and fees. The LPA shall submit this contract to INDOT prior to INDOT's Ready for Contracts date for the Project. Only costs incurred after INDOT's written notice to proceed to the LPA and the LPA's written notice to proceed to the consultant shall be eligible for federal aid participation. All claims for federal aid shall be submitted to the District office, referenced on page 1 of this Contract for payment.

2.11. The LPA shall submit reports, including but not limited to quarterly reports, to INDOT regarding the Project's progress and the performance of work per INDOT standard reporting methods. If the required reports are not submitted, federal funds may be withheld.

2.12. The LPA hereby agrees that all utilities which cross or otherwise occupy the right-of-way of said Project shall be regulated on a continuing basis by the LPA in accordance with INDOT's Utility Procedure and Accommodation Policy (See <https://www.in.gov/indot/doing-business-with-indot/consultants/designers/utilities/>). The LPA shall execute written use and occupancy contracts as defined in this Policy.

2.13. If FHWA or INDOT invokes sanctions per Section 6.6.2. of this Contract, or otherwise denies or withholds federal funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:

2.13.1. In the event of a correctable noncompliance, the LPA shall make the corrections to the satisfaction of FHWA and INDOT in a reasonable amount of time. In the event the LPA fails to make the required corrections, Sections 2.14.2 and 2.14.3 (as applicable) shall apply.

2.13.2. In the event a citation for noncompliance: (1) is unable to be corrected, (2) the LPA fails to make corrections, (3) the LPA makes corrections which are not acceptable to FHWA and INDOT, or (4) for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, Section 2.14.2 shall apply, and adjustments shall be made as follows:

- A. The LPA shall reimburse INDOT the total amount of all right-of-way costs that are subject to FHWA citation which have been paid by INDOT to the LPA.
- B. If no right-of-way costs have been paid by INDOT to the LPA or on the LPA's behalf, INDOT shall not pay any claim or billing for right-of-way that is subject to the FHWA citation.
- C. The LPA is not entitled to bill INDOT or to be reimbursed for any of its right-of-way liabilities or costs that are subject to any FHWA citation in force.

2.13.3. If FHWA issues a citation denying or withholding all or any part of construction costs due to LPA's noncompliance with right-of-way requirements, and construction work has commenced, the following shall apply:

- A. INDOT may elect to terminate, suspend, or continue construction work in accordance with the provisions of the construction contract.
- B. INDOT may elect to pay its obligations under the provisions of the construction contract.
- C. If the noncompliance can be corrected, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of FHWA and INDOT.

- D. In the event a citation for noncompliance: (1) is unable to be corrected, (2) the LPA fails to make corrections, (3) the LPA makes corrections which are not acceptable to FHWA and INDOT, or (4) for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA shall reimburse INDOT the full amount the LPA paid for said construction work, less the amount of federal funds allowed by FHWA.

2.13.4. The LPA shall reimburse INDOT the total cost of the Project, not eligible for federal participation.

2.13.5. If for any reason INDOT is required to repay to FHWA the sum(s) of federal funds paid to the LPA or any other entity through INDOT under the terms of this Contract, then the LPA shall repay to INDOT such sum(s) within forty-five (45) days after receipt of an invoice from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for federal funding shall be the sole obligation of the LPA.

III. INDOT RESPONSIBILITIES.

- 3.1.** INDOT shall have full authority and access to inspect and review all plans, specifications, and special provisions for the Project, regardless of when those plans, specifications, special provisions, or other such Project documents were created.
- 3.2.** After the LPA has submitted and INDOT has accepted all pre-letting documents, INDOT will prepare the Engineer's Estimate for construction of the Project.
- 3.3.** If the LPA owes INDOT money which is more than sixty (60) days past due, INDOT will not open the construction bids for the Project.
- 3.4.** Not later than sixty (60) calendar days after receipt by INDOT of a certified copy of a resolution from the LPA's fiscal body authorizing the LPA to make payment to INDOT according to the terms of Attachment A, and fulfillment of all other pre-letting obligations of this Contract, INDOT shall, in accordance with applicable laws and rules, including I.C. 8-23-9, I.C. 8-23-10, and 105 I.A.C. 11, conduct a scheduled letting.
- 3.5.** Subject to the LPA's written approval, INDOT shall award the construction contract for the Project according to applicable laws and rules.
- 3.6.** Not later than seven (7) calendar days after INDOT awards the construction contract described above, INDOT shall invoice the LPA for the LPA's share of the construction cost.
- 3.7.** If INDOT has received the LPA's share of the Project construction cost and if the lowest qualified bidder has not otherwise been disqualified, INDOT shall issue notice to proceed for the Project to the contractor within fourteen (14) calendar days of its receipt of the LPA's share of the construction cost.
- 3.8.** INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.
- 3.9.** In the event the engineering, testing, and inspection services provided by the LPA, in the opinion of INDOT, are deemed to be incompetent or inadequate or are otherwise insufficient or a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the engineering, testing, and inspection force or to replace engineers or inspectors employed in such work at the expense of the LPA. INDOT's engineers shall control the work the same as on other federal aid construction contracts.

- 3.10. After the final Project audit is approved by INDOT, the LPA shall, within forty-five (45) days after receipt of INDOT's invoice, make final payment to INDOT pursuant to **Attachment A** or INDOT shall, within forty-five (45) days after approval of the audit, refund any Project overpayment to the LPA.

IV. PROJECT FUNDS.

- 4.1. INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. Payment will be made for the services performed under this Contract in accordance with **Attachment A** (Project Funds).

V. TERM AND SCHEDULE.

- 5.1. **Term.** This Grant Agreement commences on the date approved by the State Budget Agency, and shall remain in effect for **six (6)** fiscal years expiring **June 30, 2032**. Unless otherwise provided herein, it may be extended upon the written agreement of the parties and in conformance with Ind. Code § 5-22-17-4.

VI. GENERAL PROVISIONS

- 6.1. **Access to Records.** The LPA and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.
- 6.2. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
- 6.3. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the LPA to be a "Contractor" under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the LPA is a "subrecipient" and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), LPA shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

- 6.4. **Authority to Bind LPA.** The signatory for the LPA represents that he/she has been duly authorized to execute this Contract on behalf of the LPA, and has obtained all necessary or applicable approvals to make this Contract fully binding upon the LPA when his/her signature is affixed and accepted by the State.
- 6.5. **Certification for Federal-Aid Contracts Lobbying Activities.** The LPA certifies, by signing and submitting this Contract, to the best of its knowledge and belief that the LPA 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 LPA, 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

agreement, 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 this 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 LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all 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.

6.6. Compliance with Laws.

- 6.6.1. The LPA 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 there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
- 6.6.2. The LPA 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 LPA 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 Contract, the LPA shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Contract.** If the LPA is not familiar with these ethical requirements, the LPA 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 LPA or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- 6.6.3. The LPA certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The LPA agrees that any payments currently due to the State of Indiana may be withheld from payments due to the LPA. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the LPA is current in its payments and has submitted proof of such payment to the State.
- 6.6.4. The LPA warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the LPA agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- 6.6.5.** Pursuant to IC § 5-22-3-1, the State and the LPA shall act in good faith in connection with the performance or administration of or any negotiations undertaken in accordance with or with respect to this Contract.
- 6.6.6.** The LPA warrants that the LPA and its subcontractors, if any, 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 for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- 6.6.7.** The LPA affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- 6.6.8.** As required by IC § 5-22-3-7:
- (1) The LPA and any principals of the LPA certify that:
 - (A) the LPA, 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 LPA will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
 - (2) The LPA and any principals of the LPA certify that an affiliate or principal of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or principals of the LPA, 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 Contract, even if IC §24-4.7 is preempted by federal law.
- 6.6.9.** i. The Company warrants that the Company, and (if applicable) any of its holding companies, affiliates, or subsidiaries, is not:
- (1) listed in Section 889 of the 2019 National Defense Authorization Act;
 - (2) listed in Section 1260H of the 2021 National Defense Authorization Act;
 - (3) owned by the government of a country, or controlled by any governing or regulatory body located in a country, on the United States Department of Commerce's foreign adversaries list under 15 C.F.R. 791.4; or
 - (4) included on or controlled by an entity on the Specially Designated Nationals list maintained by the United States Department of the Treasury's Office of Foreign Asset Control.
- ii. In accordance with Executive Order 25-64, if the State determines that the Contractor has been added to any list or designation set forth in clauses (1) through (4) in subparagraph I.i above, after entering this Contract, the State shall investigate the reasons the Contractor was added to any such list or designation. Depending upon the outcome of such investigation, the State may be required to terminate this Contract and/or dispose of any of the goods or cease the use of any of the goods or services procured under this Contract. In addition, the State shall not be required to

pay for any goods or services tendered or provided under this Contract to the Contractor on or after the date the Contractor is added to any such list or designation.

6.7. Debarment and Suspension.

6.7.1. The LPA certifies by entering into this Contract 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 Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract 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 LPA.

6.7.2. The LPA certifies that it will verify the state and federal suspension and debarment status for all contractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The LPA 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 Contract.

6.8. Disadvantaged Business Enterprise Program. Notice is hereby given to the LPA or an LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

6.9. Disputes.

6.9.1. In the event that any dispute arises with respect to this Contract, the LPA and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

6.9.2. If a valid dispute exists as to the LPA's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the LPA, the LPA may request that it be allowed to continue, or receive work, without delay. In any event, the LPA agrees that, notwithstanding the existence of a dispute, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the LPA as a result of such failure to proceed shall be borne by the LPA, and the LPA shall make no claim against the State for such costs. Any

payments that the State may delay, withhold, deny, or apply under this subparagraph shall not be subject to penalty or interest, except as permitted by IC § 5-17-5..

- 6.9.3. If the PARTIES are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration (the "IDOA") for resolution, except as otherwise provided in the Funding Cancellation and Termination for Convenience paragraphs. The dissatisfied party shall give written notice to the Commissioner of the IDOA (the "Commissioner") and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute. The notice may also afford the PARTIES the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both PARTIES. The Commissioner's decision shall be the final and conclusive administrative decision, unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the PARTIES accept the Commissioner's decision, it may be memorialized as a written amendment to this Contract, if appropriate.
- 6.9.4. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.
- 6.9.5. With the written approval of the Commissioner, the PARTIES may agree to forego the process described in subparagraph C, relating to submission of the dispute to the Commissioner.
- 6.9.6 This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State, as described in that statute. In particular releases or settlement agreements involving releases of legal claims or potential legal claims of the State should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.
- 6.10. **Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the LPA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The LPA will give written notice to the State within ten (10) days after receiving actual notice that the LPA, or an employee of the LPA 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 Contract 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 Contract is in excess of \$25,000.00, the LPA 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 LPA'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 LPA'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 (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the LPA 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 (3)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (3)(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.

6.11. Employment Eligibility Verification. As a condition precedent to entering this contract, and as required by IC § 22-5-1.7 and Executive Order 25-29, the LPA swears or affirms under the penalties of perjury that the LPA has not knowingly employed, and will not knowingly employ, unauthorized alien. The LPA further affirms that:

- A. The LPA has enrolled in and verified the work eligibility status of all his/her/its employees through, the E-Verify program as defined in IC § 22-5-1.7-3. The LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and does not employ any employees.
- B. The LPA has not knowingly employed or contracted with, and shall not knowingly employ or contract with, an unauthorized alien. The LPA has not retained, and shall not retain, an employee, and has not contracted and shall not contract with a person, that the LPA subsequently learned or learns is an unauthorized alien.
- C. The LPA has required and shall require his/her/its subcontractors, who perform work under this Contract, to certify to the LPA 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 LPA agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor and to provide any and all such certifications to the State promptly upon request.

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

6.12. Force Majeure. In the event that any Party is unable to perform any of its obligations under this Contract 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 as 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 Contract 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 Contract.

6.13. Funding Cancellation Clause.

- A.** As required by Financial Management Circular 3.3 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 Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive. The date of such written determination shall be the effective date of cancellation.
- B.** If the funds specified in this Contract for paying the LPA come solely from sources other than State funds and the State Budget Agency or the Commissioner of INDOT makes a written determination that there are no longer any available funds from such sources to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the State Budget Agency or such officer of the State that such funds are not otherwise available to support continuation of performance shall be final and conclusive. The date of such written determination shall be the effective date of cancellation.
- C.** The LPA shall be compensated for any work or services performed under this Contract prior to the effective date of cancellation. The State will not be liable for services performed after the effective date of cancellation. The LPA and the State shall agree on the amount of payment for such work or services performed. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders. Failure to agree on any item in this subparagraph constitutes a dispute under the Disputes paragraph. With the exception of any item in this subparagraph on which the LPA and the State fail to agree, no other item in this paragraph shall constitute a dispute under the Disputes paragraph.

6.14. Governing Laws. This Contract 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.

6.15. Indemnification. The LPA agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the LPA and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the LPA.

6.16. Merger & Modification. This Contract constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary PARTIES.

6.17. Non-Discrimination. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act:

6.17.1 The LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract 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 LPA 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 subparagraph may be regarded as a material breach of this Contract, including for purposes of IC 5-11-5.5-2, 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 LPA or any subcontractor.

6.17.2 The LPA covenants that it does not and shall not operate any programs or engage in any practices promoting Diversity, Equity, and Inclusion (DEI), or other similar goals, that violate Indiana or Federal Civil Rights Laws by treating a person differently on the basis of race or sex, such as by considering race or sex when making recruitment, hiring, disciplinary, promotion, or employment decisions; requiring employees to participate in training or educational programs that employ racial or sex stereotypes; or attempting to achieve racial or sex balancing in the LPA's workforce. The PARTIES agree that a breach of this subparagraph is a material breach of this Contract, including for purposes of Indiana Code § 5-11-5.5-2, 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 LPA or any subcontractor.

6.17.3 INDOT is a recipient of federal funds, and therefore, INDOT requires full compliance with all rules, regulations and statutes concerning nondiscrimination requirements and applications. Breach of this section may be regarded as a material breach of this 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 all 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).

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

1. Compliance with Regulations: The LPA 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 Contract.
2. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, 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 LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract 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 LPA 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 LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, limited English proficiency, or status as a veteran.
4. Information and Reports: The LPA 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 INDOT and the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA shall so certify to INDOT 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 LPA's noncompliance with the nondiscrimination provisions of this Contract, INDOT 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 LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
6. Incorporation of Provisions: The LPA shall include the provisions of paragraphs 1. through 6. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as INDOT 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 LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request INDOT to enter into such litigation to protect the interests of INDOT, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

6.18. Payment.

6.18.1 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 LPA 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 Contract except as permitted by IC §4-13-2-20.

6.18.2 If the LPA is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC §4-13-2-20(b)(14), the LPA agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

6.19. Penalties, Interest and Attorney's Fees. The State does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2. 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.

6.20. Pollution Control Requirements. If this Contract is for \$100,000 or more, the LPA:

- A. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
- B. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
- C. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.

6.21. Prohibited Telecommunications and Video Surveillance Equipment and Services.

In accordance with federal regulations (including 2 CFR 200.216 and 2 CFR 200.471), the LPA is prohibited from purchasing, procuring, obtaining, using, or installing any telecommunication or video surveillance equipment, services, or systems produced by:

A. Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), OR

B. Hytera Communication Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities),

for any purpose to fulfill its obligations under this Contract. The Contractor shall be responsible to ensure that any subcontractor is bound by and complies with the terms of this provision. Breach of this provision shall be considered a material breach of this Contract.

6.22. Severability. The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.

- 6.23. Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, Indiana 46204-2249

- 6.24. General.** This Contract 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 Contract must be in writing and be signed by duly authorized representatives of the PARTIES (and by all necessary approving State agencies or PARTIES). Neither this Contract nor any portions of it may be assigned, licensed or otherwise transferred by the LPA without the prior written consent of INDOT. This Contract will be binding upon the PARTIES and their permitted successors or assigns. Failure of either Party to enforce any provision of this Contract 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 Contract. The Recitals and "Notice to PARTIES" on page 1 of the Contract are hereby made an integral part and specifically incorporated into this Contract.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

Non-Collusion and Acceptance

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

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:
<https://secure.in.gov/apps/idoa/contractsearch/>

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

Fulton County
Docusigned by:

By: John Gier
82F34DBDB7A2475...

Title: Fulton County Highway Superintendent

Date: 7/22/2026 | 05:55 EDT

Indiana Department of Transportation
Docusigned by:

By: Eaton-McCalip, Kathy - 00800
BC7308F386E24E1...

Title: Director, Local Programs

Date: 7/22/2026 | 07:11 PDT

Electronically Approved by:
Department of Administration

By: (for) Brandon Clifton, Commissioner

Electronically Approved by:
State Budget Agency

By: (for) Chad Ranney, Director

***Form approval has been granted by the
Office of the Attorney General pursuant to
IC 4-13-2-14.3(e) on July 2, 2026.
FA 26-21***

ATTACHMENT A
PROJECT FUNDS

I. Project Costs.

- A. This contract is just for the phase(s) and amount(s) noted below and the funding cannot be moved from one phase to another:

Phase	Amount
Preliminary Engineering	\$479,699.20
Right-of-Way	\$
Railroad	\$
Utilities	\$
Construction	\$
Construction Inspection	\$

- B. The maximum amount of federal funds allocated to this project is **\$479,699.20**.
- C. The LPA understands and agrees that it is INDOT's policy to only allow non-discretionary changes to a Project scope after bidding. Changes to the Project scope after bidding that are by the choice of the LPA and are not required to complete the Project will not be eligible for federal-aid funds and must be funded 100% locally.
- D. The LPA understands and agrees that the federal-aid funds allocated to the Project are intended to accomplish the original scope of the Project as designed. If the Project bid prices are lower than estimated, the LPA may not utilize those federal-aid funds and the remaining balance of federal-aid funds will revert back to the Local Program.
- E. The remainder of the Project cost shall be borne by the LPA. For the avoidance of doubt, INDOT shall not pay for any costs relating to the Project unless the PARTIES have agreed in a document (which specifically references section I.B. of **Attachment A** of this Contract) signed by an authorized representative of INDOT, the Indiana Department of Administration, State Budget Agency, and the Attorney General of Indiana.
- F. Every project must have a project end date based upon the reasonable timeframe for the project phase to be completed. If a project end date lapses, the project is no longer eligible for federal reimbursement in accordance with 2 CFR 200. See <https://www.in.gov/indot/doing-business-with-indot/local-public-agency-programs/>.
- G. Costs will be eligible for FHWA participation provided that the costs:
- (1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
 - (2) Are verifiable from INDOT's or the LPA's records;

- (3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR 18.22;
- (4) Are included in the approved budget, or amendment thereto; and
- (5) Were not incurred prior to FHWA authorization.

II. Billings.

A. Billing:

1. When INDOT awards and enters into a contract (i.e., construction, utility, and/or railroad) on behalf of the LPA, INDOT will invoice the LPA for its share of the costs. The LPA shall pay the invoice within thirty (30) calendar days from date of INDOT's billing.
2. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.
3. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of **Attachment A** and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
4. Federal funds on projects which have not been billed for a twelve (12) month period are considered inactive and must be removed from the project in accordance with 2 CFR 200. To receive federal funding within the twelve (12) month period, INDOT must receive a billing within nine (9) months. See <https://www.in.gov/indot/doing-business-with-indot/local-public-agency-programs/>.

III. Repayment Provisions.

If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or on behalf of the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within thirty (30) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.