

**JOINT INTERLOCAL AGREEMENT AMONG
LAKE COUNTY DRAINAGE BOARD, TOWN OF MUNSTER AND
LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION**

WHEREAS:

Indiana Code I.C. 36-1-7-1, et seq., allows governmental entities to make the most efficient use of their powers by enabling them to mutually utilize vendors, contractors, equipment, supplies, engineering/construction services and other services for the mutual benefit of each other; and

The Little Calumet River Basin Development Commission ("LCRBDC") is created pursuant to I.C. 14-13-2-5, as a governmental agency with authority to contract on the basis of mutual advantage so as to better provide public services and facilities on a more efficient basis; and

The Lake County Board of Commissioners and the Lake County Drainage Board (collectively referred to as "County") is empowered by the Indiana Interlocal Cooperation Act, as amended, (I.C. 36-1-7-1, et seq.) with authority to contract on behalf of other governmental agencies on the basis of mutual advantage so as to better provide public services and facilities on a more efficient basis; and

The Town of Munster ("Town") is a municipal corporation empowered by the Indiana Interlocal Cooperation Act, as amended, (I.C. 36-1-7-1, et seq.) with authority to contract on behalf of other governmental agencies on the basis of mutual advantage so as to better provide public services and facilities on a more efficient basis; and

LCRBDC, County and Town ("Parties") desire to enter into an Interlocal Cooperation Agreement for the Purchase of Construction and Other Services, Supplies and Equipment for Mutual Benefit ("Agreement") consistent with I.C. 36-1-7-1, et seq., to carry out the repair work on the deferred maintenance areas as outlined in the report prepared by Christopher B. Burke Engineering, Ltd. ("CBBEL") Hart Ditch Working Group dated October 2018, which report is incorporated herein by reference. Furthermore, it shall provide for the ability to purchase construction services, engineering services, other services, supplies and equipment for the mutual benefit of the Parties;

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the Parties hereby AGREE as follows:

1. PROJECT AND PURPOSE

This project is known as the "HART DITCH STABILIZATION PROJECT" (the "Project"). The Project is intended to undertake and complete the stabilization of three (3) specific areas of the Hart Ditch within the service boundaries of the Parties and will include the removal of trees. The areas agreed to by the Parties are described below and are identified as a part of the working group study:

- 101+00 to 102+75 East Bank
- 61+25 to 63+75 West Bank
- 36+75 to 39+00 West Bank

2. GOVERNANCE AND ADMINISTRATION

- A. The Parties shall each appoint one representative to a Joint Board (total three (3) members), which is hereby established by the Agreement.
- B. The LCRBDC shall be responsible for identifying, in writing, the location, priority and scope of the Project.
- C. The County shall govern the affairs of the Agreement.
- D. The LCRBDC shall establish a budget regarding the manner of financing in coordination with the County and the Town.
- E. The County shall provide for a project monitor. The LCRBDC and the Town may also include a designated person to monitor the construction.
- F. The County shall administer any and all Construction Contracts as awarded to the lowest most responsive and responsible bidder, and shall issue a Notice to Proceed.
- G. The County shall engage and contract with CBBEL for the requisite construction engineering necessary to monitor, inspect, and oversee construction of the Project consistent with the bid award and the Project specifications.
- H. The County shall provide LCRBDC and the Town with a monthly report of its activities, which report shall include those activities referenced herein, as well as an executive summary and associated timelines to completion.

3. RESPONSIBILITIES OF LCRBDC

The LCRBDC shall contribute to the Project costs in the limited amount set forth below.

4. PROJECT COSTS

- A. The total estimated cost of construction, including engineering, construction management, etc. (excluding attorney fees) is \$1,350,000.
- B. LCRBDC shall make the initial total contribution up to the sum not to exceed \$1,000,000 (excluding attorney fees), and shall make no additional contribution to the Project, unless agreed to in writing prior to any additional work/change orders.
- C. The Town shall contribute the sum not to exceed \$100,000 towards the total cost, including construction, engineering, construction management, etc. (excluding attorney fees). The Town shall pay its designated attorney from its separate funds.
- D. The County shall contribute the sum not to exceed \$250,000 from the County's CEDIT funds towards the total cost, including construction, engineering, construction management, etc. (excluding attorney fees). The County shall pay its designated attorney.

5. PAYMENT FOR PROJECT

- A. The County shall be responsible to request payment, first from LCRBDC, and thereafter from the Town and County in pro rata shares, for payment of claims filed by the contractor and related vendors.
- B. Each of the Parties shall promptly pay its requested share of each claim. Upon receipt, the County shall place the receipts in a separate bank account from which the receipts of payment shall be used exclusively for costs of the Project.
- C. Payments to the County shall be payable on a draw basis or in a lump sum as each of the Parties shall determine.
- D. The County shall account to the LCRBDC for claims submitted, payments made, and the balance remaining in the account on a monthly basis.
- E. In exchange for each payment to a contractor or vendor, the County shall obtain a partial or full waiver of lien, and other documents required by the contract.
- F. The County's disbursing officer shall account for all monies of the joint undertaking.

6. DURATION AND DISPOSITION OF ASSETS

- A. The term hereof shall continue until the Project is complete or until the Agreement is terminated by the majority vote of the Parties.
- B. Any supplies or equipment remaining at the conclusion of the Project which have not been acquired by or through the construction contractor for purposes of it completing the Project, shall remain the property of the LCRBDC.
- C. It is not planned that the Parties shall acquire, hold or dispose of any real or personal property for use in this undertaking.

7. TERMINATION PRIOR TO COMPLETION

In the event the Project is terminated by the Parties prior to completion, the Party seeking to terminate shall provide sixty (60) days prior written notice of said termination to all parties. Once confirmed, the County shall agree to provide all documentation up to the date of termination and return all unexpended funds, first to LCRBDC to the extent of its contribution, and second to the County and the Town in respective shares. The Parties shall have no obligation to pay any remaining funding commitment after said termination of the Project.

8. OTHER TERMS

In further consideration of the mutual promises and covenants contained herein, it is additionally agreed as follows:

- A. The County will award the bids for the Project to the lowest most responsive and responsible bidders.

- B. The County shall be responsible for the primary administration and supervision over the general construction services, engineering services, and other services, supplies and equipment for the mutual benefit of the Parties related to the Project.
- C. The LCRBDC shall financially participate in the Project not to exceed the amount of \$1,000,000, and said amount shall be payable on a draw basis or in a lump sum as the LCRBDC may determine. The draw will be on a monthly basis based on the following guidelines:
 - (1) Initial Payment: The County shall provide the LCRBDC with the documentation set forth below, together with an invoice for the initial payment.
 - (2) Monthly Progress Payments: The County shall provide the LCRBDC with a monthly invoice with attachments including the most recent progress reports, together with copies of all approved third party invoices.
 - (3) Final Payment: The County shall provide the LCRBDC with a final invoice with attachments, including copies of all final documentation.
 - (4) Partial and final waivers of liens shall be delivered to the LCRBDC from time to time.
 - (5) Any payment by the LCRBDC to the County shall be made within sixty (60) days of receipt of the written request and all associated documentation.
- D. All "WHEREAS" language herein shall be incorporated in this Agreement by reference.

9. COMPLETION OF PROJECT

At the Project's completion, the County shall promptly provide each of the Parties with the following:

- A. A complete set of final "as built and as constructed" architectural/construction drawings;
- B. Copies of all documentation related to all permits;
- C. Copies of all change orders or modifications related to any/all executed third party contracts;
- D. Copies of all inspection approvals;
- E. Copies of all final third party invoices;
- F. Copies of all partial and final waiver of liens; and
- G. Any other documents requested by any of the Parties in writing.

10. WAIVER OF LAWSUITS

The Parties agree that none of them will sue the other in connection with the Project, except for payments due under the terms of this Agreement. The County agrees to defend LCRBDC and the Town in any action or proceeding brought against them by reason of their participation in this Agreement, and further agrees to indemnify the LCRBDC and the Town and

hold them harmless in any such action or proceeding, except as to matters respecting the bidding and/or funding process.

11. COUNTERPARTS

This Interlocal Cooperation Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

12. RECORDING

Before this Agreement takes effect, it shall be recorded in the Office of the Lake County Recorder. No later than sixty (60) days after its effective date and recordation, this Agreement shall be filed with the Office of the State Board of Accounts for audit purposes, all pursuant to I.C. 36-1-7-6.

13. MODIFICATION

No modification of this Agreement shall be effective, in any respect, unless agreed to in writing and approved by the Parties.

14. EFFECTIVE DATE

This Agreement shall be effective after the same has been ratified by each of the Parties by ordinance or resolution pursuant to I.C. 36-1-7-2, signed by the Parties, and recorded in the Office of the Recorder of Lake County, Indiana.

IN WITNESS WHEREOF, the Parties, by their authorized representatives, have caused this Interlocal Cooperation Agreement to be signed, intending to be bound thereby.

Little Calumet River Basin Development Commission

By: _____
Print: William F. Baker
Title: Chairman
Address: 900 Ridge Road, Suite H
Munster, IN 46321
Date:

By: _____
Print: Daniel Repay
Title: Executive Director

Town of Munster

By: _____
Print:
Title:
Address: 1005 Ridge Road
Munster, IN 46321
Date:

ATTEST:

Clerk-Treasurer

Lake County Board of Commissioners

By: _____
Print: Michael C. Repay
Title: President
Address: 2293 N. Main Street
Crown Point, IN 46307
Date:

ATTEST:

Lake County Drainage Board

By: _____
Print: Michael C. Repay
Title: Chairman
Address: 2293 N. Main Street
Crown Point, IN 46307
Date:

ATTEST:
