

**INTERLOCAL COOPERATION AGREEMENT FOR THE
USEAGE AND CONVEYANCE OF WHEEL TAX AND SURTAX REVENUE
BETWEEN THE COUNTY OF ALLEN AND
THE CITY OF WOODBURN**

This Interlocal Cooperation Agreement (“Agreement”) is entered into by and between the Board of Commissioners of the County of Allen (“County Commissioners”) and the City of Woodburn (“City”). This Agreement shall be effective on the last day in which the duties under Ind. Code § 36-1-7-10 are completed (The “Effective Date”). The County Commissioners and the City are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the County Commissioners are the executive and legislative body for Allen County, Indiana (“County”);

WHEREAS, the County Council is the fiscal body for the County;

WHEREAS, the City Council for the City of Woodburn (“City Council”) is the legislative body and the Mayor is the executive for the City;

WHEREAS, Ind. Code § 36-1-7-9 allows for an interlocal cooperation agreement between an Indiana municipality and the executive of the county in which it is located concerning highway construction and maintenance and related matters;

WHEREAS, Ind. Code § 36-1-7-10 provides that before an agreement under Ind. Code § 36-1-7-9 can take effect, it must be (1) approved by the fiscal body of each Party; (2) recorded with the county recorder; (3) filed with the executive of the municipality and the auditor of the county; and (4) filed with the auditor of state.

WHEREAS, the County Council has, pursuant to Ind. Code § 6-3.5-5, et seq., passed an ordinance establishing a County Wheel tax (“Wheel Tax”);

WHEREAS, the County Council has, pursuant to Ind. Code § 6-3.5-4, et seq., also passed an ordinance establishing a license excise surtax (“Surtax”);

WHEREAS, in 2009 the County and City entered into an agreement to provide for the construction, repair, and maintenance of bridges;

WHEREAS, the County Commissioners adopted an increase in the Major Bridge Fund in 2019 effective in 2020; and

WHEREAS, County and City wish to enter into another agreement providing for specific functions and services to be performed or furnished by the County in exchange and consideration for a proportion of distributions from the Wheel Tax and Surtax to be allocated from the City to the County;

NOW THEREFORE, IN CONSIDERATION OF THE TERMS AND CONDITIONS HEREINAFTER SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. **Repeal or Reduction of Wheel Tax, Surtax, or Major Bridge.**

Should the Allen County Council rescind or reduce the current rate of the County Wheel Tax and Surtax, this Agreement shall be null and void. Should any governmental agency or court rescind or reduce the current rate of the Major Bridge Fund, this Agreement shall be null and void.

2. **Disbursement and Allocation of Funds.** Commencing July 1,

2020, the Wheel Tax and Surtax funds shall be collected and distributed in accordance with the procedures outlined in Ind. Code § 6-3.5-4, et seq. and Ind. Code § 6-3.5-5, et seq. and this Agreement. In exchange and consideration for the services enumerated

below in Section 4, City authorizes the County to withhold, as described below, the amount based on the sum of the bridge projects costs in the bridge inspection report during the time between the execution of agreement through 2025 (“Allocation Amount”). The Allocation Amount is determined to be Thirteen Thousand Nine Hundred Thirty-Eight (\$13,938) dollars per year.

3. **Monthly Payments.** The City may pay the Allocation Amount in a lump sum payment within the first thirty days from the time of execution of this Agreement or the first thirty (30) days of a calendar year. Should a lump sum payment not be made, the County Auditor shall divide the Allocation Amount by twelve (12) to determine the monthly amount to retain/withhold (“Monthly Withholding Amount”) from the City’s Wheel Tax & Surtax distribution. Beginning on or about July 1, 2020, the Auditor shall deposit the Monthly Withholding Amount into the County Sur/Wheel Tax Bridge Fund. The Auditor shall send a receipt to the City of the Monthly Withholding Amount with the time of the Wheel Tax & Surtax distribution. The Auditor shall continue the Monthly Withholding Amount throughout the term of this Agreement. Except as provided hereinafter, the amount of the Allocation Amount withheld by the County shall not exceed Thirteen Thousand Nine Hundred Thirty-Eight (\$13,938) dollars per year. If the Allocation Amount exceeds the City’s Wheel Tax & Surtax distribution, subject to appropriation the City shall be required to dedicate another source of revenue towards this obligation. The County shall provide an invoice to the City for the outstanding amount. The City shall have 90 days to remit payment to the County. If the City does not so appropriate and pay, the County may terminate this Agreement on ninety (90) days written notice.

4. **Maintenance of Bridges.** The Allocation Amount withheld by the County shall be used only to construct, reconstruct, repair or maintain bridges and bridge approaches within Allen County as prioritized by the Allen County Highway Department and within the funds available. The Parties agree that County will be responsible for the construction, and maintenance (including, but not limited to replacement, rehabilitation, widening and repair) of all bridges including related approaches and grade separations located within unincorporated Allen County together with those located within the City limits of Woodburn, Indiana, and other cities and towns adopting similar agreements. Except for the addition of amenities not included as part of the existing bridge, the City shall have no obligation other than those contained herein for the construction and maintenance of bridges within the City limits of Woodburn for the term of this agreement. Bridge projects commenced by the City during the lapse of any previous Agreement or commenced prior to the effective date of this Agreement shall be the responsibility of the City to complete with no further obligation by the County.

5. **Federal, State, and other additional grants.** The County encourages cities and towns adopting Agreements to apply for federal, state, and/or other funding aid for bridge projects in their jurisdiction. Allen County will assume responsibility for the local funding match portion, within the funds available. Consultation with the Allen County Highway Department should be done prior to any application to ensure local match funding is available. Nothing in this section shall be construed to require a city or town to apply for grants as a condition of the Agreement.

6. **Inspection of Bridges.** The County shall have the responsibility to execute a contract for the inspection of all bridges and bridge approaches in the County in accordance with federal and state guidelines. The City shall pay the twenty percent (20%) local match for the inspection of bridges located within the City corporation limits. The cost will be separate and in addition to the Allocation Amount. The County shall provide an invoice to the City for incurred bridge inspection expenses. The City shall have 90 days to remit payment to the County.

7. **Bridge Advisory Group.** There is hereby established a Bridge Task Force. All units that are participating in an Interlocal Agreement with the Board of Commissioners shall be entitled to participate. Membership shall include: (1) the Mayor or City Manager of all participating entities and/or their designee; (2) the Allen County Commissioners and/or their designee; (3) the President of a city or town council or their designee; (4) the President of the Allen County Council or his/her designee; (5) the Allen County Highway Department; (6) a representative of the Street Department of any unit participating (if applicable); and (7) an employed civil engineer of any city and town participating (if applicable).

The Bridge Task Force shall conduct semi-annual meetings with one in the Spring and one in the Fall. The Allen County Highway Department shall be responsible for coordinating said meetings.

The Spring meeting shall commence during the pre-construction season. The Allen County Highway Department shall list the priorities for construction during the upcoming season based on the most recent bridge inventory, bridge conditions and outstanding needs and discuss the cost associated with the construction projects.

The Fall meeting shall commence during the post construction season. The Allen County Highway Department shall recap the number of projects completed during the construction season, the costs associated with the completed projects and the remaining work needed to be completed the next season.

8. **Term and Termination.** This Agreement shall commence upon the completion of approvals under Ind. Code § 36-1-7-10 and the recording of the document and shall continue for a term of four (4) years but shall renew automatically for two (2) additional one-year terms unless notice of termination is given under this Section. Either the County or the City may terminate the automatic renewal by giving written notice of same three (3) years before the effective date of the renewal. Upon any annexation by the City that should include a structure listed in the bridge inventory report not previously within the City limits, this Agreement shall terminate. If this Agreement terminates as a condition of annexation, a new Agreement may be executed between the County and City with a term not to exceed 2025. All funds from the remitted Allocation Amount remain with the County for the purposes enumerated in Section 4.

9. **Incorporation of Recitals.** The recitals are hereby incorporated by reference.

10. **Amendment of Agreement.** This Agreement may not be amended except by a written addendum or amendment executed and approved by the Parties and as required by Indiana law.

11. **Adjudication as Null and Void.** If any provision of this Agreement shall be adjudicated as null and void by any court of competent jurisdiction,

then this Agreement shall be wholly null and void and the obligations of either Party shall terminate immediately.

12. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which constitutes one and the same agreement. Delivery of an executed counterpart of this Agreement electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Agreement.

This _____ day of _____, 2020.

[Signature and Notary lines follow]:

THE BOARD OF COMMISSIONERS FOR ALLEN COUNTY, INDIANA

Richard Beck, County Commissioner

Nelson Peters, County Commissioner

Therese Brown, County Commissioner

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2020, personally appeared Richard Beck, Nelson Peters, and Therese Brown, The Board of Commissioners for Allen County, Indiana, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

THE CITY

By: _____
Joseph Kelsey , Mayor

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Joseph Kelsey, Mayor of the City of Woodburn, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

THE CITY COUNCIL FOR THE CITY OF WOODBURN, INDIANA

Michael Martin, City Council Member

Tonya Thompson, City Council Member

Dean Gerig, City Council Member

Daniel Watts, City Council Member

Mike Voirol, City Council Member

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020 , personally appeared Woodburn City Council Member(s) _____, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

THE COUNTY COUNCIL FOR ALLEN COUNTY, INDIANA

Larry Brown, County Council Member

Tom Harris, County Council Member

Kyle Kerley, County Council Member

Sheila Curry-Campbell, County Council Member

Robert Armstrong, County Council Member

Joel Benz, County Council Member

Kenneth Fries, County Council Member

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Allen County Council Member(s) _____, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Allen County Council Member(s) _____, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Allen County Council Member(s) _____, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

STATE OF INDIANA)
)§
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Allen County Council Member(s) _____, who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Notary Public
My Commission Expires:
A Resident of _____ County

This instrument prepared by: G. William Fishing (6854-02), Beers Mallers Backs & Salin, LLP
110 W. Berry Street, Suite 1100 Fort Wayne, IN 46802

Upon approval by both Parties, Allen County is responsible for recording this agreement with the Allen County Recorder's Office located at One East Main Street, Suite 100, Edwin J. Rousseau Centre, and for providing a copy of the recorded document to the City.