

ROAD TRANSFER

MEMORANDUM OF AGREEMENT

This Road Transfer Memorandum of Agreement ("Agreement") is made and entered by and between Wabash County, Indiana ("County"), and the City of Wabash, Indiana ("City") (each a Party and collectively the Parties).

RECITALS

WHEREAS, the County maintains and regulates approximately 525', more or less, of County Road 50 North from State Road 13 westerly to a commercial driveway on the north side of County Road 50 North located on the parcel commonly known as 412 W 50 N, Wabash, Indiana (Parcel 85-10-36-200-007.000-007) ("County Transferred Roads");

WHEREAS the City maintains and regulates a portion of the intersection of County Road 100 West and County Road 50 N approximately 50' from the center of said intersection, and approximately 2,628', more or less, of County Road 100 West from the intersection of County Road 100 West and County Road 50 North northerly to the north corporation limits of the City ("City Transferred Roads");

WHEREAS, Indiana Code 8-23-4-12 authorizes the County and the City to enter into this Agreement for the transfer of roads between systems; and

WHEREAS, the City desires and is willing to accept transfer of the County Transferred Roads from the County to the City, and the County desires and is willing to accept transfer of the City Transferred Roads from the City to the County.

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

AGREEMENT

1. **Purpose.** The purpose of this Agreement is to transfer full responsibility for all operation, construction, maintenance, regulation and liability relating to the County Transferred Roads from the County to the City to the fullest extent permitted by applicable law and to transfer full responsibility for all operation, construction, maintenance, regulation and liability relating to the City Transferred Roads from the City to the County to the fullest extent permitted by applicable law.

2. **Effective Date of Transfer.** The transfer of the County Transferred Roads from the County to the City and the City Transferred Roads from the City to the County shall be effective as of the date this Agreement is approved and executed by all of the Parties hereto ("Effective Date").

3. **Acceptance.** The City agrees to accept transfer of the County Transferred Roads, according to the terms of this Agreement, and assume full responsibility for all future maintenance, liability and regulation of the County Transferred Roads, including, but not limited to, the maintenance and regulation of all right-of-way, railroad crossings, structures, bridges, traffic signals, snow and ice removal, storm water drainage, mowing, other related signs, outdoor advertising structures and driveways associated therewith in perpetuity. The County agrees to accept transfer of the City Transferred Roads according to the terms of this Agreement, and assume full responsibility for all future maintenance, liability and regulation of the City Transferred Roads, including, but not limited to, the maintenance and regulation of all right-of-way, railroad crossings, structures, bridges, traffic signals, snow and ice removal, storm water drainage, mowing, other related signs, outdoor advertising structures and driveways associated therewith in perpetuity..

4. Transferred Roads Condition. The City warrants and represents that it has had sufficient opportunity to inspect the County Transferred Roads and agrees to accept the County Transferred Roads in “AS IS” condition on the Effective Date. The County warrants and represents that it has had sufficient opportunity to inspect the City Transferred Roads and agrees to accept the City Transferred Roads in “AS IS” condition on the Effective Date.
5. Roadway Inventory. Each Party hereto shall take all reasonable and necessary actions to transfer the public highways transferred pursuant to this Agreement to the Party’s roadway inventory managed through the Indiana Department of Transportation and/or Federal Department of Transportation.
6. No Change of Transferred Roads Status. The Parties agree that the County Transferred Roads and the City Transferred Roads shall remain in the local highway system. Any consideration either Party to remove the County Transferred Roads or the City Transferred Roads from the local highway system must be reviewed and approved by the other Party. The Party shall notify the other Party at least ninety (90) days prior should the Party intend or be requested to make a finding that any portion of the County Transferred Roads or the City Transferred Roads be vacated or permanently closed, or otherwise cease using any portion of the County Transferred Roads or the City Transferred Roads for road transportation purposes for the general public.
7. Existing Rights. The Parties agree that this Agreement shall not affect, terminate, or invalidate any existing rights, interests, or easements that have been permitted or approved in, under, or over any portion of the County Transferred Roads or the City Transferred Roads or in any of the rights-of-way, respectively, including but not limited to any utility or for drainage purposes.
8. No Funding. No funds are being exchanged in consideration for the transfers contained in this Agreement. The County and the City agree that the County shall not be responsible for any costs or expenses in any manner related to County Transferred Roads after the Effective Date and that City shall not be responsible for any costs or expenses in any manner related to City Transferred Roads after the Effective Date.
9. Assignment. A Party’s obligations under this Agreement are not assignable without the prior written approval of the other Party.
10. Notices. Any notice required to be given in connection with this Agreement shall be given in writing and shall be delivered either in person to the other Party or by certified mail, return receipt requested, to the other Party at the other Party’s last known address.
11. Waiver. The waiver by either Party of a breach of any provision of this Agreement shall not operate, or be construed, as a waiver of any subsequent breach.
12. Modification. No change, modification or waiver of any term of this Agreement shall be valid unless it is in writing and signed by both Parties.
13. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior Agreements or understandings between the Parties.
14. Severability. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.
15. Interpretation. The Preamble and Recitals stated above are incorporated by reference into this Agreement. Measurements stated in this Agreement are intended to be along the centerline of the road. All

captions, section headings, paragraph titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the interpretation of this Agreement.

16. Applicable law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of Indiana State without regard to conflicts of law principles. It is agreed that if any action, proceeding, or lawsuit should become necessary related to or arising out of this Agreement, jurisdiction and venue shall be in the Wabash Circuit Court, Wabash, Indiana.

17. Time. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

IN WITNESS WHEREOF, by their signatures below, the parties have executed this General Services Agreement.

BOARD OF COMMISSIONERS FOR
WABASH COUNTY, INDIANA

Date: _____

By: _____
Tyler Niccum, Chairman

CITY OF WABASH, INDIANA

Date: _____

By: _____
Scott A. Long, Mayor