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Warrick County Commissioners  
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SEP 22 2004

Don Williams

Carl Jay Conner

Phillip H. Baxter  
Richard I. Kixmiller  
WARRICK CO. AUDITOR

Resolution No. 2004 - 06

A RESOLUTION OF

The Board of Commissioners of Warrick County, Indiana

SUPPORTING THE AMENDMENT OF EUTS ARTICLES OF AGREEMENT

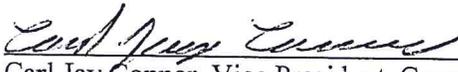
WHEREAS, the laws of the State of Indiana and of the Commonwealth of Kentucky permit local units of government to make efficient use of their powers by enabling them to cooperate with other units of government on a basis of mutual advantage and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, such laws provide that a power that may be exercised by one or more governmental entities may be exercised by one or more entities on behalf of others or jointly by the entities by entering into a written agreement for the joint exercise of such powers; and

WHEREAS, certain counties, cities and a town have indicated their willingness to enter into such an agreement and form an organization to be known and designated as the Evansville Urban Transportation Study (EUTS); to ensure that such joint cooperation and comprehensive planning and development processes are conducted in a framework of consistent policies, and that a program is executed in accordance with sound management principles and is responsive to and meets the needs of the regional area; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Warrick County, Indiana, hereby approves the Amendment of the EUTS Articles of Agreement attached hereto and authorizes Don Williams, as President of the Board of Commissioners, to execute said agreement on behalf of Warrick County, Indiana.

  
\_\_\_\_\_  
Don Williams, President, County Commissioners

  
\_\_\_\_\_  
Carl Jay Conner, Vice President, County Commissioners

  
\_\_\_\_\_  
Phillip H. Baxter, Member, County Commissioners

Date: SEPTEMBER 15, 2004

ATTEST:   
Richard I. Kixmiller, Auditor

Approved as to form by Charles L. Martin, Counsel for Warrick County, IN.

## **ARTICLES OF AGREEMENT**

This Agreement is made and entered into by and between the City of Evansville, Vanderburgh County, Town of Newburgh, Warrick County of the State of Indiana and the City of Henderson and Henderson County of the Commonwealth of Kentucky for the creation of a governmental entity to be known as the Evansville Urban Transportation Study, upon the following terms, conditions, covenants, and agreements:

### **ARTICLE I**

#### **Creation, Area to be Included, and Authorization**

- Section 1. The Evansville Urban Transportation Study (hereinafter called "EUTS") is hereby created.
- Section 2. The area to be included within the EUTS study area shall be the area of the counties which are members of the EUTS Policy and Technical Committee. The study area is a district made up of all of Vanderburgh County and Warrick County in the State of Indiana, and all of Henderson County in the Commonwealth of Kentucky.
- Section 3. This agreement is entered into pursuant to Indiana Code 36-1-7-1 et seq., and Section 65.210 of the Kentucky Revised Statutes.

### **ARTICLE II**

- Section 1. The EUTS shall have the power derived from the members of the EUTS Policy Committee in accord with statutes and these Articles of Agreement to do all things which Indiana and Kentucky law requires or permits it to do including, but not limited to, the power to carry out the purposes set forth below, provided that the EUTS shall not have the power to do any act prohibited by the Constitution or statutes of Indiana in the State of Indiana or prohibited by the Constitution or statutes of Kentucky in the Commonwealth of Kentucky. Such powers shall include the power to appoint such Committees and advisory groups as the EUTS may deem appropriate to assist it in carrying out its purposes.

Section 2. The powers, authorities and responsibilities of the EUTS may be exercised to achieve the following purposes:

- a. To be a public body and to provide such services within the study area as the applicable law will permit and the members, through the governing body of the EUTS, require fostering and developing better coordination, protection and satisfaction of the interests and needs of the governing bodies within the study area.
- b. To provide coordinated planning services to the appropriate federal, state and local governments, their political subdivisions, agencies, departments, instrumentalities, and special districts, and to engage in transportation planning in, but not limited to, matters affecting the transportation network, capital improvements, metropolitan and regional developments, land use, health, welfare and safety and any other type of project essential to transportation planning and development within the study area. Such planning may be done directly by personnel of the EUTS or under contracts between the EUTS and private consultants.
- c. To promote cooperative agreements, contracts and other compacts among and between the governments, their political subdivisions, agencies, departments, instrumentalities, special districts, and private persons, corporations and other interested agencies in the study area.
- d. To receive and expend funds and grants from any federal, state or local government or any of their political subdivisions, agencies, departments, instrumentalities, or special districts or from any private or civic source; to contract with reference thereto, and to do all other things reasonably necessary to carry out the activities of the EUTS.
- e. To take such other steps, to do such other things or undertake such other programs as are necessary or desirable to effectuate any lawful purpose of the EUTS including without limitation, the supplying of all non-federal matching funds required by any application for federal funds submitted by the EUTS.
- f. To establish and maintain an interstate, multi-county and metropolitan-wide public body which will be responsible for the formulation of area-wide transportation goals, policies and objectives for the economic, social and physical development within the study area and to prepare, develop and keep current a Transportation Improvement Plan for the area toward the attainment of these goals.

Section 3. The authority granted to EUTS by law or by these Articles shall not displace any existing municipal, county, regional or other planning commission or planning agency in the exercise of its statutory powers.

### **ARTICLE III**

#### **Governance**

##### **A. General**

The activities of EUTS shall be conducted by the Policy Committee which shall act by vote of its members as provided in the By-Laws or through its Technical Committee by vote of its members as provided in the By-Laws. Any lawful act of the Policy Committee shall be an act of EUTS.

##### **B. Policy Committee**

Section 1. A Policy Committee is hereby created for purposes of conducting the activities of EUTS consisting of the following persons:

- a. One (1) representative designated by the Board of Commissioners of Vanderburgh County, one (1) representative designated by Board of Commissioners of Warrick County, and one (1) representative designated by the governing body of Henderson County. Additionally, the Vanderburgh County Council shall select one (1) of its members to serve as a member.
- b. One (1) representative designated by the Town of Newburgh; one (1) representative designated by the City of Henderson, selected by the Mayor, Town Board, or governing body of the municipal corporation. The City of Evansville shall have three (3) representatives as members, one (1) selected by the Mayor and two (2) selected by the City Council.

Section 2. The following Federal and State representatives shall be non-voting members:

- a. One (1) representative from the Indiana Department of Transportation
- b. One (1) representative from the Kentucky Transportation Cabinet.
- c. One (1) representative from the Federal Transit Administration.
- d. One (1) representative from the Indiana Federal Highway Administration.
- e. One (1) representative from the Kentucky Federal Highway Administration.
- f. One (1) representative from the Indiana State Board of Health.
- g. Additional non-voting members may be added as required.

- Section 3. Each representative shall serve until his successor is appointed
- Section 4. The EUTS shall make an annual report of its activities to the members of the Policy Committee.
- Section 5. The members of the Policy Committee shall meet after execution of this agreement and shall elect from their membership, a Chairman and Vice-Chairman at the first meeting of each calendar year.
- Section 6. The members of the Policy Committee may be elected officials, except as provided in Section 2 above.
- Section 7. The Policy Committee shall prepare and adopt by-laws for the operation of the Evansville Urban Transportation Study.

### C. Technical Committee

- Section 1. The Technical Committee is hereby created. The Technical Committee shall be the working body of the study and is directly responsible to the Policy Committee. The Technical Committee shall provide expertise, assistance, and data for all phases of transportation planning. It shall coordinate and review the work of the Staff and prepare reports and recommendations for the Policy Committee.

The Technical Committee includes decision makers, representatives of planning and technical agencies, and state and federal representatives.

The following persons shall be non-voting members:

Chief of Environmental, Planning and Engineering Indiana Department of Transportation District Representative, Indiana Department of Transportation Chief Engineer, Indiana Aeronautics Commission Director, Kentucky Transportation Cabinet Representative, Federal Highway Administration Representative, Federal Transit Administration Representative, State Planning Representative District Agent, Agricultural Extension Service Director, Indiana Port Commission District Agent, Soil Conservation Service Director, Air Pollution Control Division Representative, Indiana State Board of Health Representative.

- Section 2. The Technical Committee members shall elect from their membership a Chairman and Vice-Chairman at the first meeting of each calendar year.

Section 3. Upon the written request of any member of the Policy Committee, any action or policy decision by the Technical Committee shall be referred to the Policy Committee for its review and approval. Upon the receipt of such written request, no action or implementation is to take place with regard to the questioned action or policy decision until the matter has received the review and approval by the Policy Committee at their next regular meeting or at a meeting called for that purpose.

D. Participant not to Benefit

No person may be a member of the Policy Committee or Technical Committee of the EUTS if he, his family, employees or agents has any direct or indirect financial interest in any contract to which the EUTS is a party and no part of the income of the EUTS shall be diverted in any manner, directly or indirectly, or otherwise inure to the benefit of any such person.

## ARTICLE IV

### **Budget and Funding**

Section 1. An annual budget for the EUTS shall be proposed by the Executive Director of the EUTS based on the INDOT/KYTC approved annual Unified Planning Work Program. The budget proposed by the Executive Director shall be presented to the Policy Committee for review and adoption.

Section 2. The EUTS shall receive from the local jurisdiction funds equal to the local match required to receive federal funds as specified in the INDOT/KYTC approved Unified Planning Work Program. In addition, the EUTS may contract with federal, state or local governments, their political subdivisions, agencies, departments, instrumentalities, and special districts for other funds or services to carry out its purposes.

Section 3. The EUTS Agreement for Services with the City of Evansville provides for the provision of certain delineated administrative policies and procedures.

## ARTICLE V

### **Officers and Executive Director**

Section 1. The officers of the Policy committee shall be a Chairman and Vice-Chairman. The officers shall be chosen by the Members and shall hold office until their successors are elected and qualified. The officers shall perform the duties customarily performed by officers holding their respective positions and shall have such further duties as may be designated to them from time-to-time by the Policy Committee.

Section 2. The Policy Committee Members may employ an Executive Director. The Executive Director shall be the administrator of the EUTS responsible for carrying out the policies and programs of the EUTS in accordance with the Articles, By-Laws and policies of the Policy Committee as well as applicable federal and state laws and rules and regulations. The Executive Director shall have the authority to employ, assign, supervise, and terminate all employees and staff of the EUTS within the framework and general limitations and policies established by the Policy Committee.

## ARTILCE VI

### **Withdrawal, Dissolution and Disposition of Property**

Section 1. Any participating governmental entity may withdraw its membership upon written notice to the Policy Committee to be effective on the first of July following notification. Notice shall be given to the Policy Committee no later than March 31 of intention to withdraw in that same calendar year. The Policy Committee may waive the notice requirement and allow withdrawal by a member governmental entity provided that the withdrawing member pays its proportional share of the EUTS financial obligations for the remainder of that fiscal year.

Section 2. EUTS shall exist perpetually except that EUTS shall be dissolved when FHWA, INDOT AND KYTC eliminate the program or funding.

Section 3. On dissolution, after payment of all outstanding obligations and liabilities of EUTS, and the provision of sufficient funds to insure the completion of any project for which federal funds have been received, EUTS' net assets of every nature and description shall revert back to the appropriate local, state and federal agency in the same proportion as originally funded.

Section 4. The proceeds from the disposition of capital equipment shall revert back to the appropriate local, state and federal agency in the same proportion as originally funded.

## ARTICLE VII

### **Amendment**

These Articles of Agreement may be amended or repealed only in writing upon approval of the governing body of each member governmental entity and such other approval and under such procedure as provided by law.

## ARTICLE VIII

### Addition of Members

Additional governmental entities members may be admitted to the Policy Committee with the approval of the Policy Committee and by adopting and becoming a party to these Articles of Agreement.

## ARTICLE IX

### Effective Date

These Articles of Agreement shall become effective when approved by all of the parties hereto, by the Attorney General of the State of Indiana and by the Attorney General of the Commonwealth of Kentucky. A copy shall be filed with the Secretary of State of Indiana and the Commonwealth of Kentucky, respectively; and, a copy shall be filed with the Recorder's Office of each respective member county.

## ARTICLE X

### Agreement Supercedes Prior Agreement

This Agreement shall replace, repeal, and supercede all prior Agreements of the parties regarding EUTS.

Each undersigned official hereby certifies that said official has been duly authorized by the governing body of the governmental entity shown to execute this Agreement on or before the date of signing hereof.

CITY OF EVANSVILLE, INDIANA

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

TOWN OF NEWBURGH, INDIANA

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

VANDERBURGH COUNTY, INDIANA

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
(TITLE)

WARRICK COUNTY, INDIANA

DATE: September 15, 2004

BY: *Don Williams*  
Don Williams  
President  
Warrick County Commissioners  
(TITLE)

CITY OF HENDERSON, KENTUCKY

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_  
(TITLE)

HENDERSON COUNTY, KENTUCKY

DATE \_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_  
(TITLE)

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Approved by the Attorney General of the State of Indiana this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004.

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Attorney General  
of the State of Indiana

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Approved by the Attorney General of the Commonwealth of Kentucky this \_\_\_\_\_  
day of \_\_\_\_\_, 2004.

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Attorney General  
of the Commonwealth of Kentucky

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