

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

August 5, 2013

President Terry Rodino called the meeting to order at 9:04 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Sheriff Brad Rogers; Pauline Graff, County Auditor; Gordon Lord, County Attorney; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Minutes of the July 15th, 22nd & 29th, 2013 meetings and placed them on file.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

At this time, Gordon Lord, county attorney, conducted a public hearing regarding the possible sale of surplus county owned real estate. He stated there are four (4) properties that the county has acquired through highway projects and bridge projects. When the projects are complete, the excess properties became available. The County Council has approved the sale of the properties. The Commissioners have to decide the merits of selling the properties before the bids can be opened. The public can speak as to the merits of the Commissioners selling these four (4) properties. The addresses of the properties are 22127 SR 119, Goshen; 22043 CR 38, Goshen; 22053 Sunset, Elkhart; and 21833 SR 120, Elkhart. Mr. Lord explained how the County became the owners of each property. There are houses on three of the four properties. He asked for comments from the audience regarding the possible sale of the properties. There were no comments about the property sale from anyone in the audience.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board closed the public hearing.

Mr. Lord questioned if anyone in the audience wanted to submit a bid at this time. Per state statute, he said that the four properties have been appraised by an independent appraiser and Jeff Taylor, Manager of Transportation, reviewed and confirmed those appraisals. There is a minimum bid requirement of 90% of the appraised value and the Commissioners cannot sell any of the properties today unless the bid is at least 90% of the appraised value. If none of the bids are acceptable the Commissioners have the right to hold another hearing or they can have them listed with a broker or hold a public auction. There was a bid for 21833 SR 120 from Ronald & Tina Drake for \$100,000, which is less than 90% of the appraised value of \$160,000. There were bids for 22043 CR 38 from John Nunemaker for \$18,000 & from Emmajean Abbott for \$45,500, both bids being less than 90% of the appraised value of \$65,000. The last bid was for 22053 Sunset, Elkhart from Frank Lucchese, who is abstaining from voting on this process, for \$50,000, which is also below the 90% appraised value. None of the bids qualify for sale today. Mr. Lord suggested the Commissioners take all of the bids under advisement and determine how to proceed with the sale of the properties. It will be determined within 60 days.

On a motion made by Mike Yoder, seconded by Terry Rodino after duly vacating the chair and carried, the Board accepted the bids and will take them under advisement. All of the bids are available for public inspection.

A Notice to Bidders was advertised in the *Goshen News* and the *Elkhart Truth* for the acceptance of bids for construction of a truck barn at CR 38 and CR 17 for the highway department. One bid was received from Gibson-Lewis, LLC in Mishawaka, Indiana for \$333,000.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board forwarded the bid to Jeff Taylor, Manager of Transportation, for evaluation and review.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved a grant renewal application for the Women, Infants & Children (WIC) grant for \$913,917 for the health department, as requested by Dr. Nafziger, Health Officer.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a grant renewal application for the WIC Breastfeeding Peer Counselor Grant for \$60,053 for the health department, as requested by Dr. Nafziger, Health Officer.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an out-of-state travel request for Dr. Nafziger to go to Colorado Springs, CO in September for Continuing Education – Leadership Conference.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the establishment of a change fund for \$100 for the administration division of the Health Department, as requested by Dr. Nafziger, Health Officer.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a four (4) year agreement with Daniel A. Nafziger, M.D as health officer for the county. This is contingent upon approval by the County Council at their meeting on Saturday, August 10, 2013. A copy of the agreement is on file in the Commissioners' office.

On a motion made Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an Ordinance Adopting an Amendment to the Elkhart County Government Personnel Policy & Standards Procedures Manual, as requested by Tom Byers, County Administrator. This specifically separates "Sexual Harassment" and "Sexual Misconduct" as was required by our insurance carrier.

The Ordinance is as follows:

**ORDINANCE ADOPTING AMENDMENT TO ELKHART COUNTY GOVERNMENT
PERSONNEL POLICY AND STANDARD PROCEDURES MANUAL**

WHEREAS Indiana Code Sections 36-1-3-1 et seq. permit any county in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana is the County executive body and the County legislative body and is by law authorized to adopt ordinances and resolutions concerning personnel policies and operating procedures for Elkhart County Government;

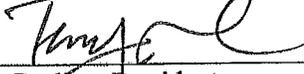
WHEREAS the Elkhart County Council is the County fiscal body and is by law authorized to adopt ordinances and resolutions concerning Elkhart County fiscal matters;

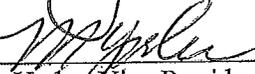
WHEREAS the Board of Commissioners of the County of Elkhart, Indiana and the Elkhart County Council desire to have consistent and uniform policies and procedures applied to Elkhart County employees; and

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana and the Elkhart County Council desire to amend the Elkhart County Government Personnel Policy and Standard Procedures Manual by amending Section 3.01 to add policy provisions concerning sexual misconduct;

NOW, THEREFORE, BE IT ORDAINED, ORDERED, AND ESTABLISHED by the Board of Commissioners of the County of Elkhart, Indiana and the Elkhart County Council that the Elkhart County Government Personnel Policy and Standard Procedures Manual is hereby amended by replacing existing Section 3.01 with amended Section 3.01 now entitled "Equal Employment Opportunity/Workplace Harassment/Sexual Misconduct" in the form as is attached hereto in Exhibit A which is hereby approved and adopted for Elkhart County Government and ordained this 5th day of August, 2013 by the Board of Commissioners of the County of Elkhart, Indiana and this 10th day of August, 2013 by the Elkhart County Council to be effective August 10, 2013.

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By 
Terry Rodino, President

By 
Mike Yoder, Vice-President

By 
Frank Lucchese, Member

ELKHART COUNTY COUNCIL,
STATE OF INDIANA

By _____
John K. Letherman, President

By _____
Thomas W. Stump

By _____
David M. Ashe

By _____
David E. Foutz

By _____
Randall D. Yohn

By _____
Darryl J. Riegsecker

By _____
David L. Hess

ATTEST:


Pauline E. Graff, Elkhart County Auditor

SECTION 3.01 EQUAL EMPLOYMENT OPPORTUNITY/WORKPLACE
HARASSMENT/SEXUAL MISCONDUCT

I. POLICY

The following statements reflect the policy of Elkhart County:

Elkhart County is an equal opportunity employer.

- We are sensitive to and encourage employees at all levels to adhere to an equal employment opportunity philosophy. We do not discriminate in employment practices, facility accessibility and service to citizenry activities on the basis of race, color, age, religion, gender, national origin, disability, genetic information, or any other basis protected by federal or state law.
- We shall recruit, hire, train and promote without regard to race, color, age, religion, gender, national origin, disability, genetic information, or any other basis protected by federal or state law. Each department head or elected official is to ensure that all employment related decisions, including promotion and career development opportunities, shall be in accordance with the principles of equal employment opportunity. Only job related requirements shall be imposed for all employment opportunities.
- All personnel actions, including decisions related to compensation, benefits, transfers, layoffs and educational training will be administered without regard for race, color, age, religion, gender, national origin, disability, genetic information, or any other basis protected by federal or state law.
- We prohibit harassment of employees based on race, color, age, religion, gender, national origin, disability, genetic information, or any other basis protected by federal or state law. All of our employees should expect to work in an environment free of harassment.
- We expect that employees who feel they are a victim of an equal employment opportunity violation or harassment will seek assistance from their supervisor, their department head/elected official, the Director

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Effective 12/19/98; Rev. 12/13/03; 8/15/04; 4/17/10; 9/15/12; 8/10/13

Exhibit A

or Assistant Director of Human Resources and/or any other responsible supervisory level employee who can assist them in reporting their concerns.

- We seek the continued support of all public officials, department managers and other employees for their assistance and compliance in attaining our objectives of maintaining an equal employment opportunity work and services environment for all employees and those they serve, and a harassment-free workplace.
- The most productive and satisfying work environment is one in which work is accomplished in a spirit of mutual trust and respect. Harassment is a form of discrimination that is offensive, impairs morale, undermines the integrity of the employment relationship and causes serious harm to the productivity, efficiency and stability of the County.

II. SCOPE

This policy applies to all County departments, public officials, managers, and employees.

This policy applies not only during working time, but to any activities, on or off County premises, which could reasonably be associated with the workplace or in any location related to the work of the County.

This policy applies to sexual and all other forms of harassment at work and strictly prohibits harassment by any public official, supervisor, employee, vendor, citizen or volunteer.

The Genetic Information Nondiscrimination Act (GINA) defines genetic information as including information about an individual's genetic tests, genetic tests of family members, and family medical history. Supervisors should not solicit information of this type and should discourage general communication of such information in the workplace.

III. PROCEDURE

- A. We shall, in addition to the policy statement noted above, have in place an EEO/Affirmative Action Plan adopted by the County Commissioners and

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supported by the County Council. This plan shall be reviewed and updated on a periodic basis and shall address our commitment to equal employment opportunity for all employees and those seeking employment or other services with the County.

B. The EEO Policy Statement of the County shall be disseminated as follows:

1. After approval by the County Commissioners, the EEO Policy Statement shall be distributed to all County departments and bargaining units.
2. New employees will be made aware of the County EEO Policy during orientation.
3. This EEO Policy Statement will be displayed in the County Human Resources Department and on departmental bulletin boards.
4. Representative community groups and organizations will be advised of the County's EEO Policy and notification will be in writing. Such community groups and organizations may include minority and women's organizations, community agencies, community leaders, secondary schools, and colleges.
5. "Elkhart County is an Equal Opportunity Employer" is used in all job postings.

C. Harassment

1. Included in our commitment to provide a workplace free of job-related discrimination is a prohibition against on-the-job harassment of any employee because of the employee's race, color, gender, religion, age, national origin, disability, genetic information, or any other basis protected by federal or state law. Employees have a right to work in an environment free of harassment which interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

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2. Included in our commitment to provide a workplace free of job-related sex discrimination is a prohibition against sexual harassment. Examples of sexual harassment include:
 - a. Unsolicited and unwelcome verbal comments or jokes and physical gestures or actions of a sexual nature toward another employee (for example, touching, patting, pinching, indecent exposure or profane jokes); or
 - b. Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters; or
 - c. The explicit or implicit promise of preferential treatment with regard to an individual's employment in exchange for sexual favors or sexual activities; or
 - d. The use of an employee's or applicant's submission to or rejection of such conduct as the basis of an employment decision (for example, hiring, firing, promotion, demotion, compensation, benefits, or working conditions).

3. Included in our commitment to provide a workplace free of harassment is a prohibition against all forms of harassment.
 - a. Harassment may be subtle, manipulative and is not always evident.
 - b. It does not refer to occasional compliments of a socially acceptable nature.
 - c. It refers to behavior that is not welcome and is personally offensive.
 - d. All forms of gender harassment are included.
 - e. Men can be sexually harassed; men can harass men; women can harass other women.

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- f. Offenders can be managers, supervisors, co-workers and non-employees such as clients or vendors.

D. Violation of Policy, Possible Remedies and Corrective Action

- 1. Any employee who feels they are or may be the victim of an equal employment opportunity violation, the recipient of any type of workplace harassment, including intimidation, and/or the subject of unwanted attention:
 - a. Is encouraged to explain to the offending person that their conduct or behavior is not welcome and should cease. Advise the offending person if their conduct or behavior continues, a formal report will be made to their supervisor and/or other responsible individual in County government.
 - (1) Noting the presence of or having a witness is encouraged if circumstances warrant.
 - (2) In addition to documenting what occurred, noting the date, time and others present is also encouraged.
 - b. If an employee has exercised the action noted above and the offending person's conduct or behavior continues to be offensive, OR the employee is not comfortable in confronting the offending person or fears retaliation, the employee must:
 - (1) Report and explain to the offending person's supervisor what the offending employee's conduct or behavior has been and seek the supervisor's assistance, or
 - (2) Report and explain to their own supervisor, the Director or Assistant Director of Human Resources or to any other responsible supervisory level employee the offending employee's conduct or behavior and seek their assistance.

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2. Any department head/elected official or supervisor who is approached by an employee seeking assistance must contact the Director or Assistant Director of Human Resources for guidance.
3. All reports and/or complaints will be taken seriously, considered valid, appropriately investigated, and followed up on with the employee reporting the conduct or behavior.
4. If an employee's complaint is substantiated or found to be valid, appropriate action will be taken with the offending person including disciplinary action up to and including the termination of the offending person's employment.
5. If it can be demonstrated that a complaint made by an employee was untrue and made with malicious intent, the reporting employee may be subject to disciplinary action.
6. Supervisors should periodically remind and encourage their employees to come forward and seek assistance from their supervisor, department head/elected official or the Human Resources Office if they feel they have been a victim of an equal employment opportunity violation or harassment.
7. It is also important that supervisors monitor employees to ensure such behaviors do not exist in the work environment and not simply assume if an employee does not come forward with a complaint, or comes forward but asks that nothing be done, then there is no problem.
8. Any time a supervisor is aware of any behavior that a reasonable person might find to be harassment, discrimination or otherwise inappropriate, the supervisor has a responsibility to take appropriate action to correct the behavior, including reporting the behavior and documenting the action.
9. Even though the County maintains a self-insurance fund for potential liability to cover situations where an employee, or former employee, feels they have been treated unfairly or differently for some reason, in many situations supervisors can also be held

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personally liable for their actions. Supervisors are advised that they should always act professionally and responsibly in their leadership roles.

E. EEO Practice

1. Responsibility for monitoring this EEO/Workplace Harassment policy is with all department heads, public officials and the Human Resources Department. Each is obligated to assist in complying with the intent of the law and providing assistance to any employee.
2. Any employee who has any suggestion, problem, concern or complaint with regard to an EEO issue should contact their immediate supervisor, department head or elected official, or in special circumstances, the Human Resources Department.
3. The Human Resources Department and/or the County's EEO Officer (Director of Human Resources) may be called upon at any time for assistance. Often, when identified and reported early, the EEO Officer may recommend various alternatives as to how to best address the situation. In some situations an investigation may be the best alternative to protect the employee, the supervisor and the County whether the complaint is later determined to be valid or is not able to be substantiated
4. The County Council, the County Commissioners and all elected officials of the County are expected to support the County's established Equal Employment Opportunity/Workplace Harassment Policy.

F. Sexual Misconduct

1. The County will not tolerate and will seek to eradicate any behavior by its officials, employees, volunteers, or other representatives which constitutes Sexual Misconduct toward another. "Sexual Misconduct" means any actual or attempted criminal sexual conduct as defined by the State of Indiana criminal law, including sexual assault, sexual abuse, sexual exploitation, indecent or

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sexual solicitation, or public indecency. "Sexual Misconduct" does not include "sexual harassment."

2. Child Abuse.

Sexual abuse of a minor is a crime. Any case of known or suspected child abuse must be reported immediately in compliance with state law reporting requirements to the Indiana Department of Child Services Child Abuse and Neglect Hotline at 1-800-800-5556.

3. Reporting Procedures and Designated Child Abuse Counselor.

- a. It is the express policy of the County to encourage victims of Sexual Misconduct, and their parents or guardians in the case of minors, to come forward with such claims.
- b. The County has named a Designated Child Abuse Counselor who shall remain accountable for the implementation and monitoring of this policy. The identity of the Designated Child Abuse Counselor shall remain on file with the Personnel Department.
- c. In order to conduct an immediate investigation, any incident of Sexual Misconduct must be reported as quickly as possible in confidence, as follows:
 - (1) Officials, employees, volunteers, and other representatives of the County are required to report any known or suspected incidents of Sexual Misconduct according to applicable state law. They must also report to their Department Head or Elected Official, direct supervisor, or the Designated Child Abuse Counselor. If the report is made to the Department Head or Elected Official or supervisor, that individual shall notify the Designated Child Abuse Counselor. If the person to whom reporting is directed is the offending person, the report should be made to the next higher level of administration or supervisor.

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- (2) Each year, parents or legal guardians of children shall be advised of the contents of this Sexual Misconduct Policy by posting at various County offices and facilities as determined by the Designated Child Abuse Counselor.

4. Investigation and Confidentiality.

All Complaints will be given a full, impartial, and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties, confidentiality cannot be guaranteed.

5. Discipline.

- a. Any official, employee, volunteer, or other representative of the County who is determined, after an investigation, to have engaged in Sexual Misconduct in violation of this policy will be subject to disciplinary action, up to and including discharge, or any other available legal action.
- b. Any official, employee, volunteer, or other representative involved in a reported incident of Sexual Misconduct or child abuse may be immediately relieved of responsibilities that involve interaction with minors or may be suspended, as determined by the County. Reinstatement for those involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared.
- c. False accusations regarding Sexual Misconduct will not be tolerated, and any person knowingly making a false accusation will likewise be subject to disciplinary action, up to and including discharge, or such other legal action as is available.
- d. The County will discipline any individual who retaliates against any person who reports alleged Sexual Misconduct or who retaliates against any person who testifies, assists, or

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participates in an investigation, proceeding, or hearing related to a Sexual Misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

6. Maintenance of Records and Documents.

The Designated Child Abuse Counselor shall maintain all records and documentation required by law or otherwise required by this and other related policies of the County, including all documents related to procedures for screening, hiring, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting, follow-up, and disciplinary action.

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On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved Secondary approval of an 11 lot major subdivision known as Copperfield 10th for Fireside Homes, Inc., (owner-developer) and Michael & Elaine Ryan (owner of Lot 124), represented by Brads-Ko Engineering & Surveying, Inc., located on the west end of Copperfield Lane, 2,300 ft. west of CR 1, 3,000 feet south of CR 2 in Cleveland Township, as requested by Mark Kanney from planning and development.

Chris Godlewski, Director of Planning, addressed the Board regarding an amended building code ordinance for the county. Changes needed to be made to the present ordinance with regards to the state's energy code. This has been approved by the state fire & building safety commission. There is also an ordinance amending certain fees for certain types of permits or services contemplated by the Elkhart County Building Code Ordinance. Mr. Godlewski pointed out the changes that were made in the new ordinances. These ordinances have been drafted by the county attorney's office. They have been approved by the state building commission.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved and adopted both of the proposed ordinances as presented.

The Ordinances are as follows:

ORDINANCE NO. 2013- 330
AMENDED AND RESTATED
ELKHART COUNTY BUILDING CODE ORDINANCE

WHEREAS Indiana Code Sections 36-1-3-1 et seq. permit any county in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana is the County executive and legislative body and is by law authorized to adopt ordinances for the protection of the public health, safety, and general welfare of the residents of Elkhart County, Indiana;

WHEREAS the purpose of this Ordinance is to provide minimum standards for the protection of life, limb, health, environment, public safety, and welfare, and for the conservation of energy in the design, construction, repair, and remodeling of buildings in the unincorporated area of Elkhart County, Indiana and in any municipality which elects, by ordinance, to make itself subject to this Ordinance;

WHEREAS this Ordinance amends, restates, replaces, and supersedes Ordinance No. 08-400 known as the Elkhart County Building Code Ordinance;

NOW, THEREFORE, BE IT ORDAINED as follows:

1. DEFINITIONS. For purposes of this Ordinance, the terms below shall be defined as follows:

a. "Building Commissioner" shall mean the Elkhart County Building Commissioner and his or her duly authorized representatives. Authorized representatives shall include all employees holding positions identified within the budget classifications for the Planning Division and the Code Enforcement Division of the annual budget as approved and as amended by the Elkhart County Council from time to time.

b. "Building Department" shall mean the Elkhart County Building Department. The Elkhart County Building Department is hereby re-established and confirmed as an Elkhart County Department.

c. "Commissioners" shall mean the county executive for the County of Elkhart, Indiana.

d. "Construction" shall be defined as provided in Indiana Code § 22-12-1-7, as amended, but shall also include:

(i) The conversion of buildings and structures, or parts of them, from one occupancy classification to another;

(ii) The movement or demolition of buildings, structures, and equipment for the operation of buildings and structures; and/or

(iii) The erection, assembly, alteration, equipment, use, occupancy, location, maintenance, repair, rehabilitation, remodeling of, and additions to buildings, structures, and appurtenances.

e. "County" shall mean the County of Elkhart, State of Indiana.

f. "Director" shall mean the Elkhart County Plan Director.

g. "Permit" shall mean a building permit required by and to be issued in accordance with the terms and provisions of Section 6 of this Ordinance.

h. Unless otherwise provided in this Ordinance, the definitions provided in Indiana Code § 22-12-1 et seq., as amended, shall govern the use of those terms as contained in this Ordinance.

2. STATE REQUIREMENTS. In the event that any of the requirements of this Ordinance are found to be in conflict with any of the rules, regulations, and statutes of the Indiana Fire Prevention and Building Safety Commission, the requirements of the rules, regulations, and statutes of the Indiana Fire Prevention and Building Safety Commission shall control and govern. Pursuant to Indiana Code §22-13-2-3(b), the following rules and regulations adopted by the Indiana Fire Prevention and Building Safety Commission are hereby adopted by reference which adoption shall be construed to include all amendments as of the date of this Ordinance and any later amendments to these provisions:

a. Indiana Building Code (Title 675, Article 13 of the Indiana Administrative Code).

b. Indiana One and Two Family Dwelling Code (Title 675, Article 14 of the Indiana Administrative Code).

c. Indiana Plumbing Code (Title 675, Article 16 of the Indiana Administrative Code).

d. Indiana Electrical Code (Title 675, Article 17 of the Indiana Administrative Code).

- e. Indiana Mechanical Code (Title 675, Article 18 of the Indiana Administrative Code).
- f. Indiana Energy Conservation Code (Title 675, Article 19 of the Indiana Administrative Code).
- g. Indiana Swimming Pool Code (Title 675, Article 20 of the Indiana Administrative Code).
- h. Indiana Fire Prevention Code (Title 675, Article 22 of the Indiana Administrative Code).
- i. Indiana Supplementary Fire Safety Rule (Title 675, Article 24 of the Indiana Administrative Code).
- j. Indiana Fuel Gas Code (Title 675, Article 25 of the Indiana Administrative Code).
- k. Indiana Visitability Rule for One and Two Family Dwellings and Townhouses (Title 675, Article 27 of the Indiana Administrative Code).
- l. National Fire Protection Code (NFPA) Standards (Title 675, Article 28 of the Indiana Administrative Code).
- m. In addition to requiring compliance with the above and foregoing codes, rules, and standards, the Building Commissioner shall require compliance with orders issued under Indiana Code §22-13-2-11, orders issued under Indiana Code §22-12-7, Indiana Code §22-15-3-7, and a written interpretation of a building law and fire safety law binding on the County under Indiana Code §22-13-5-3 or Indiana Code §22-13-5-4.

3. CONSTRUCTION REQUIREMENTS.

a. This Ordinance and the codes, rules, and standards adopted pursuant to this Ordinance shall apply to any and all construction which occurs after this Ordinance takes effect.

b. This Ordinance does not apply to an industrialized building system or mobile structure that is certified under Indiana Code §22-15-4.

c. This Ordinance does not apply to regulated amusement devices, boilers, lifting devices, or pressure vessels.

4. ADMINISTRATION. The Building Commissioner shall administer the terms and provisions of this Ordinance. The Building Commissioner shall be hired and named by the Director consistent with County personnel policies and procedures; provided, however, the Building Commissioner may be removed at the pleasure of the Commissioners. The classification, job description, and qualifications of the Building Commissioner shall be kept on file in the Elkhart County Office of Personnel and Insurance.

5. ENFORCEMENT. The Building Commissioner shall enforce the terms and provisions of this Ordinance. Whenever the Building Commissioner finds that a person has committed a prohibited act or failed to comply with any of the terms and provisions of this Ordinance, the Building Commissioner may take any one (1) or more of the following actions:

a. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, the Building Commissioner may enter any building or premises at all reasonable times to inspect them or to perform any duty imposed upon the Building Commissioner by this Ordinance.

If a building or premises is occupied, the Building Commissioner shall first present proper credentials and demand entry. If the building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If entry is refused, the Building Commissioner shall have recourse to every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or control of any building or premises shall fail or neglect, after proper demand is made as provided in this Ordinance, to promptly permit entry in the building or premises by the Building Commissioner for the purpose of inspection and examination pursuant to this Ordinance.

b. Stop Work Order. Whenever any construction is being done contrary to the terms and provisions of this Ordinance, the Building Commissioner may order the construction stopped by written notice served on any persons engaged in or causing that work to be done, and all those persons shall immediately stop that construction until authorized by the Building Commissioner to proceed with the construction. As an additional part of the notice, the Building Commissioner shall post the stop work order in a prominent place on the building or project and shall serve a copy of the notice of the order to stop work by regular United States mail on the person holding or requesting the permit. The issuance of a stop work order shall in no way limit the operation of the civil penalty provisions provided elsewhere in this Ordinance.

c. Withhold Issuance of Permits. Whenever a person applies for a permit for a site, building, or structure that is not being used or constructed in conformance with the applicable provisions of this Ordinance or the Elkhart County Zoning Ordinance or any other County

Ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until such time that the property is brought into compliance with applicable ordinances and codes. The withholding of the issuance of a permit shall in no way limit the operation of the civil penalty provisions provided elsewhere in this Ordinance.

d. Permit Revocation. The Building Commissioner may revoke a permit when any of the following are applicable:

- i. The application, plans, or supporting documents contain a false statement or misrepresentation as to a material fact;
- ii. The application, plans, or supporting documents reflect a lack of compliance with the building codes, rules, standards, or procedures;
- iii. There is a failure to comply with this Ordinance; or
- iv. A building or structure for which the permit has been issued is not being used or constructed in conformance with this Ordinance or the Elkhart County Zoning Ordinance or any other County Ordinance related to land use.

The revocation of a permit shall in no way limit the operation of the civil penalty provisions provided elsewhere in this Ordinance.

e. Agreed Order. The Building Commissioner, in the name of the Building Department, may enter into an agreed order with the approval of the Director which order may include the payment of a civil penalty and other expenses associated with the enforcement of this Ordinance by the Building Department.

f. Suit for Civil Penalties. The Building Commissioner, in the name of the Building Department, may file a complaint in a court of competent jurisdiction within Elkhart County seeking a judicial determination that this Ordinance has been violated and requesting the imposition of civil penalties.

g. Enforcement of Agreed Order. The Building Commissioner, in the name of the Building Department, may file a complaint in a court of competent jurisdiction within Elkhart County seeking to enforce the terms of an agreed order.

h. Injunctive Relief. The Building Commissioner, in the name of the Building Department, may petition a court of competent jurisdiction within Elkhart County for the issuance of a temporary restraining order or permanent injunction which restrains the violation of or requires specific compliance with this Ordinance or any codes, rules, standards, or procedures established pursuant to the terms of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the civil penalties provided for in this Ordinance.

i. Other Action. Nothing contained herein shall prevent the Building Commissioner from taking any other lawful action as is necessary to prevent or remedy any violation of this Ordinance.

6. PERMITS.

a. Building Permit. A building permit is a license to perform any work in accordance with the requirements of this Ordinance. All applications for permits to be issued by the County shall state the tax code number assigned by the Elkhart County Auditor to that parcel of real estate.

b. Requirements.

i. No building permit shall be issued by the Building Commissioner for a Class 1 structure unless and until a Construction Design Release has been issued by the State of Indiana.

ii. No person shall construct, reconstruct, extend, alter, repair, remodel or make an addition to any building or portion of a building, fireplace or chimney of any existing building, or perform any plumbing work, electrical work, heating work, ventilation work, air conditioning work, or other work for which this Ordinance establishes applicable codes, rules, or standards governing such work before a written application on the prescribed form to do so is submitted to and approved by the Building Commissioner and a permit is issued by him or her for the proposed work.

iii. Permit applications for Class 1 structures must be accompanied by the plans and prints in paper format or in electronic/digital PDF format; provided, however, the Building Commissioner may require submission in both paper format and in electronic/digital PDF format.

iv. Interior or exterior painting and routine maintenance or repairs which do not affect electric, plumbing, heating, ventilation, air conditioning, or structural stability are specifically exempted from the requirements of obtaining a permit under this section.

c. Permit Issuance. Before issuing any permit, the Building Commissioner may require the applicant to file a set of detailed plans and specifications, a copy of which may be retained in the office of the Building Commissioner. In the case of any commercial or industrial

building or structure, such set of detailed plans and specifications will be required to include a preliminary report or estimate from the Elkhart County Health Department Environmental Health Division, based upon a soil scientist's sample, setting forth the type of sewage disposal system most suitable for the proposed site. At the discretion of the Building Commissioner, a permit may be issued without all necessary sanitation, sewer, and/or septic tank permits issued by the Elkhart County Health Department Environmental Health Division to a commercial or industrial applicant who has received a positive or workable preliminary report from the Elkhart County Health Department Environmental Health Division. Any changes from the approved plans or specifications shall be made only after a revised copy of them has been submitted to and approved by the Building Commissioner.

Permits may not be issued to landowners who have real estate adjacent to subdivision streets which have not been opened or constructed in accordance with the Elkhart County Zoning Ordinance and the Elkhart County Subdivision Control Ordinance or who do not otherwise have legal access to the parcel of real estate.

d. Use and Occupancy. Irrespective of whether a permit has been issued, no building for which a permit is herein required shall be used or occupied by the owner or any other person (other than usage relative to completion of the work or construction at issue) unless and until the Building Commissioner has issued both an occupancy permit and a utility service hook-up authorization. No such occupancy permit or utility service hook-up authorization shall be issued by the Building Commissioner until all requirements of the permit process have been complied with, the work or construction contemplated has been carried out in accordance with the permit (and the

plans and specifications approved as a part thereof), the provisions of this Ordinance and any other laws and ordinances which are administered or enforced by the County have been satisfied, and the necessary formal sanitation, sewer, and septic tank permits relative to the building or structure (if any) have been issued by the Elkhart County Health Department Environmental Health Division and/or the Indiana State Board of Health as required by statute or regulation. After final inspection, when it is found that the building or structure complies with the provisions of this Ordinance and any other laws and ordinances which are administered or enforced by the County, the Building Commissioner shall issue a Certificate of Occupancy.

e. Term of Permits. Permits shall expire one (1) year after the date of issuance and shall be null and void if the construction has not reached final inspection within that one (1) year period; provided, however, extensions may be granted on residential permits for three (3) months and on commercial permits for six (6) months. At the conclusion of any extension granted, the permit shall then expire. Upon permit expiration, an extension or new permit is required. Construction thereafter, without an extension or a new permit, shall be considered a violation of this Ordinance and be subject to enforcement action.

7. FEES.

a. Schedule. When a permit is required, fees shall be levied in accordance with the schedule of fees identified in Elkhart County Ordinance 2013- 347 , as amended or replaced from time to time.

b. Refunds. The Building Commissioner may authorize the refunding of any fee paid hereunder which was erroneously paid or collected. The Building Commissioner may also

authorize the refunding of not more than eighty percent (80%) of a permit fee when no work has been done under a permit issued in accordance with this Ordinance. The Building Commissioner shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of the fee payment.

c. Local Government Exemption. All local governmental units shall be exempt from payment of the permit fees provided the local governmental unit furnishes a written statement to the Building Commissioner requesting that the fee be waived. Said statement shall specifically identify that the fee in question would be the responsibility of a local governmental unit and not the responsibility of a builder or contractor.

i. Nothing in this Section shall be deemed an elimination of the requirement for the issuance of a proper permit required under this Ordinance.

ii. Nothing in this Section shall be construed to eliminate the right of the Building Commissioner to conduct on-site inspections of any work taking place pursuant to any permit.

iii. If a local governmental unit fails to secure any permit required by this Ordinance, then the unit shall be subject to any and all actions, proceedings, or assessments permissible against any other entity failing to secure a proper permit.

8. INSPECTIONS. It shall be the duty of the person doing the work authorized by a permit to notify the Building Commissioner that such work is ready for inspection. It shall be the duty of the owner, contractor, or person requesting any inspections required by this section to provide a safe and unobstructed access into the structure with no special arrangements or

appointments required. No ramps or ladders shall be permitted; temporary steps at a minimum must be provided into a structure. No work shall be done on any part of a building or structure or other project beyond the point indicated in each successive inspection without first obtaining the approval of the Building Commissioner. Inspections are required in succession for the following construction categories:

<u>Construction</u>	<u>Required Inspections</u>
Structures	Footing Foundation Framing Final
Plumbing	Underground Rough in Final
Mechanical	Gas service Rough in (Chimney/duct work) Final
Electrical	Temporary Service Permanent and rough in service Final
Energy (Pre-Drywall)	Mechanical Plumbing Insulation

9. RIGHT OF APPEAL. Any person aggrieved by an order issued under this Ordinance shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

- a. Appeal to the Fire Prevention and Building Safety Commission.

i. A person aggrieved by an order issued under this Ordinance may appeal to the Fire Prevention and Building Safety Commission in accordance with Indiana Code § 22-13-2-7.

ii. The Fire Prevention and Building Safety Commission may modify or reverse any order issued by the County that covers a subject governed by Indiana Code § 22-12, Indiana Code § 22-13, Indiana Code § 22-14, Indiana Code § 22-15, a fire safety, or a building rule.

iii. The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 structure if the person aggrieved by the order petitions for review under Indiana Code § 4-21.5-3-7 within thirty (30) days after the issuance of the order.

iv. The Fire Prevention and Building Safety Commission may review all other orders issued under this Ordinance.

v. The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

b. Appeal to a Court.

i. Pursuant to Indiana Code § 36-7-8-9, a person aggrieved by a decision of the Building Department may appeal as in other civil actions to a court for judicial review.

ii. To appeal, the appellant must, by registered mail, give the Commissioners a fifteen (15) day written notice of his or her intention to appeal. The notice must concisely state the appellant's grievance.

10. PENALTY PROVISIONS.

a. Fines. Any person found to be in violation of this Ordinance shall be guilty of an ordinance violation and shall be subject to a civil penalty of up to Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each day that a violation continues shall constitute a separate violation. Any failure to comply with any of the terms and provisions of this Ordinance shall constitute a violation. The assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in this Ordinance.

b. Additional Recovery. The Building Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of this Ordinance from any person found to be in violation of this Ordinance.

11. AUTHORITY OF BUILDING COMMISSIONER. It is hereby acknowledged, understood, and declared by the Commissioners that the Building Commissioner is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of Elkhart County, Indiana in administering this Ordinance. The authority of the Building Commissioner to issue, deny, suspend, or revoke, or fail or refuse to issue, deny, suspend, or revoke any permit, license, approval, order, or similar authorization under this Ordinance is hereby declared to be discretionary; provided, however, the Building Commissioner has no discretionary authority to waive, vary, or alter the requirements of any Indiana building law.

12. CONSTRUCTION AND EFFECTIVE DATE.

a. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed upon the effectiveness of this Ordinance. This Ordinance shall become effective from and after the date on which both of the following have occurred:

(i) This Ordinance has been duly adopted by the Commissioners and published in accordance with the requirements of applicable Indiana law; and

(ii) The Fire Prevention and Building Safety Commission of Indiana has approved of this Ordinance as required by Indiana Code § 36-3-4-14.

b. In the event that any provision of this Ordinance is determined by a court of competent jurisdiction to be preempted by a state or federal law or regulation, the applicable provision shall automatically be deemed amended by eliminating the preempted provision and incorporating in its place the applicable provision of the preempting state or federal law or regulation.

c. Each section of this Ordinance shall be construed as separate. If any term or provision of this Ordinance is determined to be invalid or enforceable by a court of competent jurisdiction, the remaining terms and provisions of this Ordinance shall continue in full force and effect.

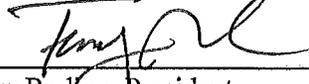
d. Compliance with the requirements of this Ordinance does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local law and regulation affecting agricultural, residential, commercial, or industrial buildings, structures, or premises in Elkhart County, Indiana.

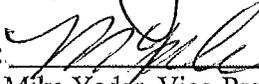
e. The expressed repeal by this Ordinance and any implied repeal by this Ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Ordinance. These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed ordinance as if this Ordinance had not been adopted.

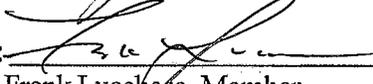
f. Two (2) copies of the codes, rules, and standards adopted and incorporated by reference in Section Two (2) of this Ordinance are on file in the Elkhart County Auditor's Office for public inspection.

ORDAINED AND ADOPTED this 5th day of August, 2013.

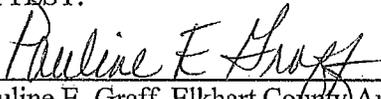
BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By: 
Terry Rodino, President

By: 
Mike Yoder, Vice-President

By: 
Frank Lucchese, Member

ATTEST:


Pauline E. Graff, Elkhart County Auditor

Approved this day, _____, 2013, by the Fire Prevention and Building Safety Commission of the State of Indiana.

STATE OF INDIANA FIRE PREVENTION AND
BUILDING SAFETY COMMISSION

By: _____

Title: _____

ORDINANCE NO. 2013- 347

**ORDINANCE AMENDING CERTAIN FEES FOR CERTAIN
TYPES OF PERMITS OR SERVICES CONTEMPLATED BY
THE ELKHART COUNTY BUILDING CODE ORDINANCE**

WHEREAS, Indiana Code Sections 36-1-3-1 et seq. permit any county in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana (“Board of Commissioners”) is the County executive and legislative body and is by law authorized to adopt ordinances for the protection of the public health, safety, and general welfare of the residents of Elkhart County, Indiana;

WHEREAS, the Board of Commissioners is by law authorized to approve fee schedules for services and records provided by the Elkhart County Building Department pursuant to Indiana Code Section 36-7-8-10;

WHEREAS, by Ordinance No. 06-553, the Board of Commissioners adopted certain fees and costs associated with different types of permits or services relevant to the then Elkhart County Building Code Ordinance;

WHEREAS, by Ordinance No. 09-338 (also known as 2009-338), the Board of Commissioners amended Ordinance No. 06-553, and established certain fees applicable to mobile homes, attached garages, workshops, storage sheds, or other buildings associated with such;

WHEREAS, by Ordinance 12-115, the Board of Commissioners amended the Fee and Cost Schedules of Ordinance 06-553 and 09-338;

WHEREAS, by Ordinance No. 2013- 330, the Board of Commissioners amended and restated the “Elkhart County Building Code Ordinance” and incorporated by reference the fees and charges established by this Ordinance;

WHEREAS, the purpose of this Ordinance is to revise and restate certain fees and costs arising under the Elkhart County Building Code as such fees and costs were originally

established by Ordinance No. 06-553, and as such fees and costs were revised by Ordinance No. 09-338 and 12-115;

WHEREAS, pursuant to the authority vested by Indiana Code Sections 36-1-3-1 et seq. and Indiana Code Sections 36-7-8-1 et seq., the Board of Commissioners does hereby amend, update, and restate a new fee and cost schedule governing the collection of fees and costs for the services and records provided by the Elkhart County Building Department in accordance with the terms and provisions hereinafter stated;

NOW, THEREFORE, BE IT ORDAINED as follows:

1. Revised Fees and Costs. The Fee and Cost Schedule set forth on Exhibit A of Ordinance 12-115 is replaced and superseded by the Fee and Cost Schedule set forth on Exhibit A attached hereto and made a part hereof.

2. Construction and Effective Date.

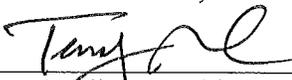
A. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed upon the effective date of this Ordinance.

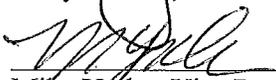
B. This Ordinance shall become effective as of September 1, 2013. Prior to that date, fees and charges arising under Ordinance No. 12-115 and Ordinance No. 08-400 shall remain in full force and effect.

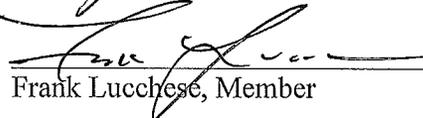
C. All provisions of Ordinance No. 06-553, not specifically revised by the Fee and Cost Schedule attached hereto as Exhibit A, shall remain in full force and effect.

ORDAINED AND ADOPTED this 5th day of August, 2013.

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By: 
Terry Rodino, President

By: 
Mike Yoder, Vice President

By: 
Frank Lucchese, Member

ATTEST:


Pauline E. Graff
Elkhart County Auditor

EXHIBIT A

FEE AND COST SCHEDULE

Section 1. The fee and cost schedule for the Elkhart County Building Department is hereby amended and established in accordance with the terms and provisions of this Ordinance. The fee and cost schedule below replaces and supersedes Table I of Section 36-7-8-2 of the Elkhart County Code as established by Ordinance PC 86-40, and all ordinances subsequent thereto, to include Ordinances No. 09-338, 08-440, and 06-553. Unless otherwise indicated herein, all fees and costs shall be due and payable at the time of application, when the service is performed, or when the fee is imposed, whichever occurs first. With respect to the Certificate of Occupancy fee for residential permits when a Certificate of Occupancy will be required, that fee shall be due and payable at the time of application for a building permit or other residential permit.

I. RESIDENTIAL PERMITS

A. Residential Building Permit.

(1) The standard residential permit fee covers the footing/foundation, structural, mechanical, plumbing, and electrical permits and inspections for a single or two-family residence, attached porches or decks, and an attached garage. Detached garages, workshops, storage sheds, or other outbuildings are not included and require separate permits and fees as outlined in Section B below. For purposes of this Ordinance, the term “residential” shall mean of or pertaining to a residence which shall be defined as a structure primarily used for dwelling purposes which contains no more than two (2) dwelling units and which dwelling units are each used or are intended to be used primarily for purposes of living, sleeping, cooking, and eating. The standard residential building permit fee is based upon the square footage of the structure as follows:

<u>Square footage of structure</u>	<u>Fee</u>
121 to 900 sq. ft.	\$200
901 to 1500 sq. ft.	\$225
1501 to 2500 sq. ft.	\$250
2501 to 3000 sq. ft.	\$275
3001 to 5000 sq. ft.	\$300
Over 5000 sq. ft.	\$325 plus \$.02 per sq. ft. over 5000 sq. ft.

(2) The standard residential permit fee for a mobile home covers the footing/foundation/piers, structural, mechanical, plumbing, and electrical permits and inspections for a single mobile home, attached porches or decks, and an attached garage. Detached garages, workshops, storage sheds, or other outbuildings are not included and require separate permits and fees as outlined in Section B below. For purposes of this Ordinance and this Section, the term “mobile home” shall be as defined in the Elkhart County Zoning Ordinance, as amended or replaced from time to time. The residential building permit fee for a mobile home shall be Seventy-five Dollars (\$75.00).

B. Residential Remodeling, Additions, Detached Garages, Accessory Structures and Individual Permits by Service. The fees listed below are for remodeling or additions to residential structures, detached garages, accessory structures, individual permits for certain services, and any other type of structure or activity that is not included in the standard residential building permit but which relates to a residential use. For purposes of this Ordinance, the term “remodeling” includes structural alterations to a residence, and any replacement or extension of electrical, mechanical, and plumbing in residential or accessory structures. Required inspections are included in the fees outlined below:

<u>Type of Permit or Service</u>	<u>Fee</u>
1. Permits for remodeling, additions, detached garages, accessory structures, and individual permits for certain services:	
a) Footing/Structural	\$50
b) Temporary electric service or a meter relocation	\$20
c) Electrical	
--Up to 400 amps	\$35
--Over 400 amps	\$50
d) Mechanical (includes, but is not limited to, air conditioning or cooling system, furnace or other heating device, air cleaner, residential exhaust fans, and gas lines)	\$40
e) Wood or solid burning fuel (includes mechanical permit)	\$60
f) Plumbing	\$40
g) Energy	\$25
2. Swimming Pool only	\$50
3. Water heater only	\$20
4. Water softener only	\$20
5. Demolition Permit (residential and assessor structure)	\$25
C. Extension of Residential Building Permit	\$100

II. COMMERCIAL, MULTI-FAMILY RESIDENTIAL, OR INDUSTRIAL CONSTRUCTION PERMIT FEES

A. Commercial Building Application Fee. Prior to consideration for a commercial building permit, the Owner or Contractor must provide the Elkhart County Building Department with a copy of the State Design Release for the project, unless the Owner or Contractor demonstrates that the project is exempt from such requirement pursuant to 675 IAC 12-6-4. The commercial rates set forth in this Section II apply to all commercial, industrial, and multi-family residential structures (collectively referred to as “commercial buildings”). Commercial buildings shall also include non-occupied non-residential structures such as water tanks, field storage tanks, inflatable structures, commercial crane elevators, cell towers, and similar structures. The following is the standard application fee for commercial buildings in Elkhart County:

<u>Square footage of structure</u>	<u>Fee</u>
First 25,000 sq. ft.	\$200
25,001 to 50,000 sq. ft.	\$400
50,001 to 100,000 sq. ft.	\$500
Greater than 100,000 sq. ft.	\$500 plus \$.02 per sq. for over 100,000 sq. ft.

B. Commercial Building Permit Fees. In addition to the commercial building application fee above, any commercial building project shall be subject to the following fee schedule. Required inspections are included in the fees outlined below:

<u>Type of Permit</u>	<u>Cost</u>
1) Footings & Structural:	
-First 25,000 sq. ft.	\$50
-25,000 to 50,000 sq. ft.	\$75
-50,000 to 100,000 sq. ft.	\$100
-Greater than 100,000 sq. ft.	\$150 plus \$.02 per sq. ft. over 100,000 sq. ft.
2) Temporary electrical service	\$40
3) Electric service:	
-Up to 100 Amps	\$50
-More than 100 Amps and up to 200 Amps	\$60
-More than 200 Amps and up to 400 Amps	\$70
-More than 400 Amps and up to 800 Amps	\$80
-More than 800 Amps	\$90
4) Mechanical (each, heating, cooling, make up air or refrigeration unit)	\$50

5) Gas lines	\$50
6) Base plumbing fee	\$40
7) Plumbing fee for each fixture drain	\$5
8) Fire suppression or sprinkler system	
-Up to 150 heads	\$50
-151 to 300 heads	\$100
-Over 300 heads	\$200
9) Demolition Permits:	
-Less than 20,000 sq. ft	\$25
-20,000 to 50,000 sq. ft.	\$50
-Greater than 50,000 sq. ft.	\$100
10) Site Plan Review	\$100
11) Construction Plan Review	\$100
12) Extension of Permit	\$200

The following are examples of commercial buildings and the application of the fee schedules:

	<u>24,000 Sq. ft.</u>	<u>160,000 Sq. ft.</u>
New Commercial Building Application Fee	\$200.00	\$1,700.00
Footing/Structural inspection fee	\$ 50.00	\$1,350.00
Temporary electric fee	\$ 40.00	\$ 40.00
Electric service (200 amps)	\$ 60.00	\$ 60.00 (400 amps)
Mechanical (2 heating units, 2 cooling units)	\$200.00	\$ 200.00
Gas Line	\$ 50.00	\$ 50.00
Plumbing (7 drains)	\$ 75.00	\$ 75.00
Fire prevention sprinkling system (100 heads)	<u>\$ 50.00</u>	<u>\$ 150.00</u> (over 300 heads)
Total	\$725.00	\$3,640.00

III. AGRICULTURAL BUILDINGS

Agricultural buildings include, but are not limited to, storage bins, silos, workshops, barns, loafing sheds, implement sheds, and other similar types of structures used for agricultural purposes. Agricultural buildings are subject to the applicable fees at the residential rates set forth in Section I(B) above.

IV. OTHER FEES AND COSTS

The following are additional fees and costs of the Elkhart County Building Department. The re-inspection fees set forth below will be assessed for each inspection required due to code violations, the failure to correct violations, lock-outs when inspections have been requested, or any additional inspection that is required by applicable law which is not otherwise set forth in this Ordinance. Notice will be left with the inspection when these fees will be applied. When a Certificate of Occupancy is requested, such fees must be paid prior to the issuance of the Certificate of Occupancy.

A civil penalty equal to twice the normal fee will be added to the permit for any work started before securing the building permit or appropriate specialty fee (plumbing, electrical, footings, etc.)

<u>Type of Fee or Service</u>	<u>Amount</u>
1) Certificate of Occupancy	\$35
2) First Re-Inspection	\$35
3) Second Re-Inspection	\$50
4) Third and Each Subsequent Re-Inspection	\$65
5) Builder/Contractor Annual License/Registration (Due and Payable on February 15 th of each year)	\$100
6) Stop Work Order	\$50
7) Permit Reinstatement Fee	\$100
8) Civil penalty for work after a Stop Work Order	\$500
9) Illegal Structures (not used for permitted use)	Two (2) times the appropriate permit fee(s) for the actual use
10) Duplicate or lost permit charge	\$5.00
11) Copies (8.5" x 11")	\$0.15 per page
12) Copies (8.5" x 14")	\$0.15 per page
13) Copies (11" x 14")	\$0.15 per page
14) Large scale copies (greater than 11" x 14")	\$5.00 per page
15) Returned check fee	\$25.00

If a check is returned for insufficient funds, stop payment order, or is not honored for any other reason, all permits obtained with that check shall be void. If construction has not started, a permit reinstatement fee and the returned check fee must be paid before reinstatement of permits will be considered. If construction has started, all construction must stop immediately and a stop work order fee, plus a permit reinstatement fee, and the returned check fee must be paid before reinstatement of permits will be considered. If work does not stop, or work commences prior to the reinstatement of all required permits, then the civil penalty fee for work after a stop work order will be applied and the matter may be referred to the Office of the Elkhart County Prosecutor or the Elkhart County Attorney for further action and enforcement. In all cases, the amount of the returned check must be paid to the Elkhart County Building Department in good funds.

V. SIGNS

Signs and Billboards. An application for a stationary sign or billboard must be accompanied by a site plan with dimensions and boundaries, a location of the sign on the site, a footing/foundation plan, and the sign specifications. For purposes of this Ordinance, each viewable face of the sign shall be included in the total square footage calculation. The permit fees for signs are as follows:

<u>Stationary Signs</u>	<u>Non Lighted and Non Illuminated</u>	<u>Lighted or Illuminated Sign</u>
First 100 square feet	\$40	\$ 80
101 to 200 square feet	\$50	\$100
201 to 300 square feet	\$60	\$120
301 to 500 square feet	\$70	\$140
Over 501 square feet	\$80	\$160
 <u>Portable Signs for Commercial Use</u> <u>(must have zoning clearance)</u>		
1) Fee for portable sign with zoning clearance (maximum of three week duration)	\$40	
2) Civil penalty for portable sign without a permit, zoning clearance, or violation of time limit	\$100	

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved and forwarded to the County Council an additional appropriation from the Millersburg I TIF District fund for \$27,071 and an additional appropriation from the Millersburg II TIF District fund for \$20,000 for scheduled payments for the upgrade of the Millersburg Wastewater Treatment Plant, as requested by Chris Godlewski, Director of Planning.

The two (2) additional appropriations are as follows:

**ELKHART COUNTY
ADDITIONAL APPROPRIATION REQUEST**

DATE: July 19, 2013

DEPARTMENT

Millersburg I TIF
NAME

325
NUMBER

AMOUNT REQUESTED	PROJ. NO.	ACCOUNT/PROJECT NAME	ACCT. NO.	FUND NAME	FUND NO	
1 \$ 27,071		Other Professional Services	4309	Millersburg I TIF	325	
2						
3						
4						
5						
6						
7						
8						
TOTAL \$ 27,071						
ORIGINAL AMOUNT		If Prior Add'l Appropriation Was Approved This Year	Can Transfers Be Effected		APPROVED BY COUNCIL	
Approp.	Unspent Request		as of Date	YES	NO	Amount
		AMOUNT	DATE			
1						
2						
3						
4						
5						
6						
7						
8						
TOTAL \$						

REASON FOR REQUEST

Payment of TIF district revenues pursuant to the Interlocal Agreement dated
January 24, 2013 for the Millersburg Wastewater Treatment Plant and other
related improvements.

**ELKHART COUNTY
ADDITIONAL APPROPRIATION REQUEST**

DATE: July 19, 2013

DEPARTMENT

Millersburg II TIF
NAME

321
NUMBER

AMOUNT REQUESTED	PROJ. NO.	ACCOUNT/PROJECT NAME	ACCT. NO.	FUND NAME	FUND NO
1 \$ 20,000	1301	Millersburg Wastewater	4730	Millersburg II TIF	321
2		<u>Treatment Plant</u>			
3					
4					
5					
6					
7					
8					
TOTAL \$ 20,000					

ORIGINAL AMOUNT			If Prior Add'l Appropriation Was Approved This Year	Can Transfers Be Effected		APPROVED BY COUNCIL			
Approp.	Unspent Request	as of Date		AMOUNT	DATE	YES	NO	Amount	Date
1									
2									
3									
4									
5									
6									
7									
8									
TOTAL \$									

REASON FOR REQUEST

Payment of TIF district revenues pursuant to the Interlocal Agreement dated
January 24, 2013 for the Millersburg Wastewater Treatment Plant and other
related improvements.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved and forwarded to the County Council an appropriation reduction from the Cumulative Bridge fund for \$135,000 for the Simonton Street bridge project, as requested by Jeff Taylor, Manager of Transportation. The bid came in lower than anticipated for the project.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved and forwarded to the County Council an additional appropriation from the EDIT fund for \$50,000 for the CR 3 and CR 32 project right-of-way costs, as requested by Jeff Taylor, Manager of Transportation.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved and forwarded to the County Council an additional appropriation from the MVH fund for \$63,000 for equipment repairs, as requested by Jeff Taylor, Manager of Transportation.

The appropriation reduction and two (2) additional appropriations are as follows:

**ELKHART COUNTY
ADDITIONAL APPROPRIATION REQUEST**

DATE: 07-23-13

DEPARTMENT

Highway
NAME

331-980
NUMBER

	AMOUNT REQUESTED	PROJ. NO.	ACCOUNT/PROJECT NAME	ACCT. NO.	FUND NAME	FUND NO		
1	50,000	1322	CR 3 & CR 32 Right of Way	4730	E.D.I.T.	331		
2								
3								
4								
5								
6								
7								
8								
TOTAL	50,000							
			If Prior Add'l Appropriation Was Approved This Year	Can Transfers Be Effected		APPROVED BY COUNCIL		
	ORIGINAL AMOUNT							
	Approp.	as of Date	AMOUNT	DATE	YES	NO	Amount	Date
	125000					X		

REASON FOR REQUEST 1. Additional funds required to acquire remaining parcel through condemnation.
Funds to be used for all costs associated including, but not limited to: legal, real estate purchase, consulting, travel,
or any other costs associated with right of way on this project.

**ELKHART COUNTY
ADDITIONAL APPROPRIATION REQUEST**

DATE: 07-23-13

DEPARTMENT

Highway
NAME

112-204
NUMBER

	AMOUNT REQUESTED	PROJ. NO.	ACCOUNT/PROJECT NAME	ACCT. NO.	FUND NAME	FUND NO	
1	63,000		Outside Equipment Repairs	4339	M.V.H.	112	
2							
3							
4							
5							
6							
7							
8							
TOTAL	63,000						
	ORIGINAL AMOUNT		If Prior Add'l Appropriation Was Approved This Year	Can Transfers Be Effected		APPROVED BY COUNCIL	
	Approp.	as of Date		YES	NO	Amount	Date
	40,000	12,815	7/22		X		

REASON FOR REQUEST 1. Additional funds needed for repairs to equipment.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved and accepted Copperfield Lane-250 feet & Copperforest Lane-450 feet in Copperfield Tenth subdivision, as requested by Jeff Taylor, Manager of Transportation.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved Change Order No. 4 for a decrease of \$13,500 for the Prairie Street Bridge project for Northern Indiana Construction Co., as requested by Jeff Taylor, Manager of Transportation. This was because they started the project early and there was a penalty.

The Change Order is as follows:

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Contract Information

District:FT. WAYNE DISTRICT

Contract No.: B -33713

AE:Koch, Michael

Letting Date:07/11/2012

PE/S:Wills, Dale

Status:Draft

Change Order Information

Date Generated: 00/00/0000

Change Order No.: 004

Date Approved: 00/00/0000

EWA: N or Force Acct: N

Reason Code: STANDARDS/SPECS CHANGE, Other

Description: Liquidated damages for early start date

Original Contract Amount	\$ 1,951,446.90	
Current Change Order Amount	\$ -13,500.00	Percent: -0.692 %
Total Previous Approved Changes	\$ 3,900.00	Percent: 0.200 %
Total Change To-Date	\$ -9,600.00	Percent: -0.492 %
Modified Contract Amount	\$ 1,941,846.90	

Time Extension Information

Date Initiated 00/00/0000

Date Completed 00/00/0000

Original Contract Time

SS Completion Date 08/02/2013 or SS Calendar/Work Days 0

SP Date 00/00/0000 or SP Days

(SS = Standard Specification, SP = Special Provision)

Time Element Description: The early start date was moved from March 17, 2013 to January 7, 2013 per the contractors request or 69 days earlier. The contract completion date is August 2, 2013 but was completed on July 18, 2013 which is 15 days early. Per the special provisions, \$250/day is to be charged as liquidated damages for days started before the contract early start time of March 17, 2013. It was agreed at the prefinal inspection that the contractor would only be charged liquidated damages for 54 days @ \$250.00/day since the project was completed 15 days early.

Current Time Extension	SS Days 0 SP Days 0	SP Days Value \$ 0.00
Previous Time Approved	SS Days by AE: _____ DCE: _____ SCE: _____ DDCM: _____	
	SS Days _____	SP Days Value \$ _____
Revised Contract Time	SS Completion Date 00/00/0000 or SS Calendar/Work Days 0	
	SS Date 00/00/0000 or SP Days 0	

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Review and Approval Information

Required Approval Authority AE:_____ DCE:_____ SCE:_____ * DDCM:_____ *
(\$ per Change Order) (- LE \$ 250K-) (- LE \$ 750K -) (-- LE \$ 2 M --) (-- GT \$ 2 M --)
(Days per Contract) (50 SS days) (100 SS days) (200 SS Days) (GT 200 SS days)

Verbal Approval Required? Y / N If Y, by_____ Date Issued_____

Total Change To-Date>5%? Y / N If Y , Copy to Program Budget Manager_____

Scope/Design Recommendation Y / N If Y, Referred to Project Manager(PM) _____
Required? _____

Date to PM_____ Date Returned_____

Approval Authority Concurs with PM? Y / N If Y, Concurrence by_____ Date_____

If N,Resolution: Approved _____ Disapproved _____

Resolved by_____ Date_____

LPA Signatures Required? Y / N If Y, Date to LPA _____ Date Returned _____

FHWA Signatures Required? Y / N If Y, Date to FHWA _____ Date Returned _____

* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer _____ Date _____

Comments: _____

Contract No: B-33713

INDIANA

Date: 07/26/2013

Change Order No: 004

Department of Transportation

Page: 3

Contract: B-33713
 Project: 0902305 - State: 0902305
 Change Order Nbr: 004
 Change Order Description: Liquidated damages for early start date
 Reason Code: STANDARDS/SPECS CHANGE, Other

CLN	FCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0094	0902305	0094	109-08369	DOL	13,500.000	-1.000	C	Amount: \$ -13,500.00

Item Description: LIQUIDATED DAMAGES

Supplemental Description1: Contractor began work earlier than contract start date.

Supplemental Description2:

Total Value for Change Order 004 = \$ -13,500.00

Contract Completion Date Time Adjustment

Original Completion dt: 08/02/2013 Adj. compl dt: 07/16/2013 Adj No. of Days -15

Explanation: The early start date was moved from March 17, 2013 to January 7, 2013 per the contractors request of 69 days earlier. The contract completion date is August 2, 2013 but was completed on July 18, 2013 which is 15 days early. Per the special provisions, \$250/day is to be charged as liquidated damages for days started before the contract early start time of March 17, 2013. It was agreed at the prefinal inspection that the contractor would only be charged liquidated damages for 54 days @ \$250.00/day since the project was completed 15 days early.

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.
General or Standard Change Order Explanation

The early start date was moved from March 17, 2013 to January 7, 2013 per the contractors request of 69 days earlier. The contract completion date is August 2, 2013 but was completed on July 18, 2013 which is 15 days early. Per the special provisions, \$250/day is to be charged as liquidated damages for days started before the contract early start time of March 17, 2013. It was agreed at the prefinal inspection that the contractor would only be charged liquidated damages for 55 days @ \$250.00/day since the project was completed 15 days early.

Change Order Explanation for Specific Line Item

It is the intent of the parties that this change order is full and complete compensation for the work describe above
Notification and consent to this change order is hereby acknowledged.

Contractor: NORTHERN INDIANA CONST.

Signed By: *David J. Walowski*

Date: 7-29-13

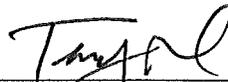
NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No: B -33713
Change Order No: 004

INDIANA
Department of Transportation

Date: 07/26/2013
Page: 4

APPROVED FOR LOCAL PUBLIC AGENCY



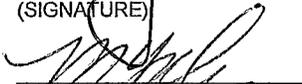
(SIGNATURE)

County Commissioner

(TITLE)

8-5-2013

(DATE)



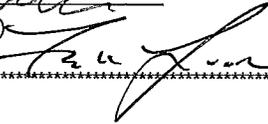
(SIGNATURE)

County Commissioner

(TITLE)

8-5-2013

(DATE)



County Commissioner

(TITLE)

8-5-2013

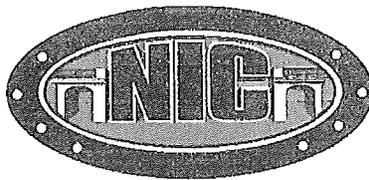
(DATE)

SUBMITTED FOR CONSIDERATION

PE/S _____

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORTATION

Approval Level	Name of Approver	Date	Status
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Northern Indiana Construction

December 20, 2012

Mr. Dale Wills
R. W. Armstrong
1251 N. Eddy Street, Suite 201
South Bend, Indiana 46617

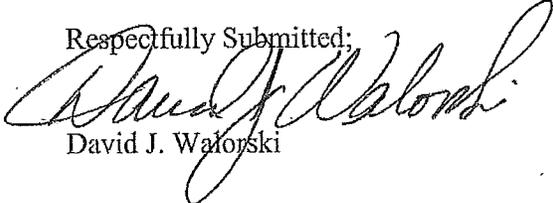
RE: B-33713 Prairie street over the Elkhart River, Elkhart IN.

Dear Mr. Wills;

In accordance with the standard specifications section 108, (e) Earliest Date To Begin Work, Northern Indiana Construction Company Inc. is requesting to begin work before the stated date in the proposal of March 17, 2013. I am requesting to close Prairie Street and start work on January 7, 2013. I have discussed and received approval from the city of Elkhart along with the county engineer.

Please review and approve this request.

Respectfully Submitted;


David J. Walorski

AUGUST 5, 2013

PAGE 367

55803 DOGWOOD RD. P.O. BOX 1333 MISHAWAKA, IN. 46546-1333 PH: 574-256-1811 FAX: 574-256-1879

"An Equal Opportunity Employer"

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an Interlocal Agreement for Road Funding with the Town of Bristol and the Bristol Redevelopment Commission and adopted a Resolution Supporting the Interlocal Agreement for the Road Funding with the Town of Bristol, as requested by Tom Byers, County Administrator. This will be a loan from the county's Major Moves fund to pay for an upgraded intersection on SR 15. The Commissioners also approved and forwarded to the County Council an additional appropriation request for \$1,500,000 from the Major Moves-Construction fund for the project.

The Resolution and additional appropriation are as follows:

RESOLUTION NO. 2013-369

RESOLUTION SUPPORTING INTERLOCAL AGREEMENT FOR
ROAD FUNDING WITH TOWN OF BRISTOL

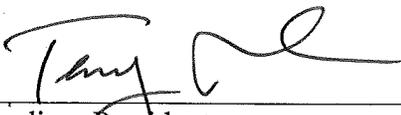
WHEREAS the Town of Bristol, Indiana and the County of Elkhart, Indiana believe that there is a need to enhance and improve an existing road access to the Town of Bristol, Indiana in order to facilitate economic development in the South State Road 15 Economic Development Area;

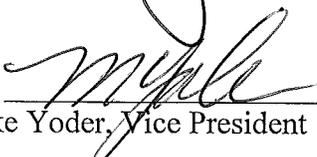
WHEREAS the Town of Bristol, Indiana and the County of Elkhart, Indiana desire to enter into an Interlocal Agreement for road funding pursuant to Indiana Code Sections 36-1-7 et seq. and 36-7-14 et seq.;

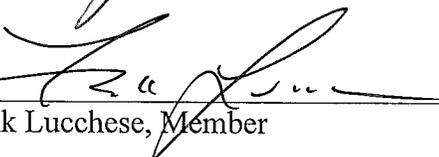
NOW, THEREFORE, IT IS HEREBY RESOLVED by the County of Elkhart, Indiana to approve and enter into the Interlocal Agreement for Road Funding with the Town of Bristol, Indiana and the Bristol Redevelopment Commission which is attached hereto as Exhibit A and incorporated herein by reference.

RESOLVED this 5th day of August, 2013.

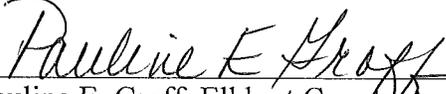
Board of Commissioners of the County of
Elkhart, Indiana

By: 
Terry Rodino, President

By: 
Mike Yoder, Vice President

By: 
Frank Lucchese, Member

ATTEST:


Pauline E. Graff, Elkhart County Auditor

INTERLOCAL AGREEMENT FOR ROAD FUNDING

This Agreement, made and entered into effective the ____ day of _____, 2013, by and between the Town of Bristol, Indiana and the Bristol Redevelopment Commission (hereinafter collectively referred to as "Bristol") and the County of Elkhart, Indiana (hereinafter referred to as "Elkhart County");

WITNESSETH:

WHEREAS Bristol and Elkhart County hereby mutually agree that there is a need to enhance and improve an existing road access in the Town of Bristol, Indiana in order to facilitate economic development in the South State Road 15 Economic Development Area;

WHEREAS the enhancement and improvement of the road access in the Town of Bristol, Indiana through this joint governmental effort to allow for a new road access and intersection with State Road 15 for the South State Road 15 Economic Development Area will benefit Bristol and Elkhart County in the creation of new jobs and allowing for future expansion and development within the South State Road 15 Economic Development Area;

WHEREAS this Agreement is entered pursuant to the provisions of Indiana Code Sections 36-7-14 et seq. and Indiana Code Section 36-1-7-3 to provide for road and intersection improvements to enhance access to the South State Road 15 Economic Development Area;

NOW, THEREFORE, upon the mutual promises and commitments of Bristol and Elkhart County to be performed, the parties stipulate and agree as follows:

1. DEFINITION: For the purposes of this Agreement, the term "Project" shall mean the planning, designing, engineering, bidding, and constructing of a new roadway access and intersection with State Road 15 serving the South State Road 15 Economic Development Area in accordance with the detailed project engineering plans and specifications prepared or to be prepared by JPR, Inc., but with such Project subject to and in accordance with the INDOT/TOWN OF BRISTOL AGREEMENT for S.R. 15 @ Earthway/Bloomingtondale Intersection Improvement identified as EDS # A249-13-320155A ("INDOT Agreement"). Bristol and Elkhart County hereby acknowledge that they have reviewed the general

project plans and concur that the Project will benefit and serve and be physically connected to the South State Road 15 Economic Development Area. If the Project is not commenced on or before the first day of January, 2014, this Agreement shall be subject to termination by Elkhart County upon written notice to Bristol.

2. DESIGN ENGINEERING AND CONSTRUCTION REVIEW SERVICES: Utilizing detailed project engineering plans and specifications for the Project prepared by JPR, Inc., Bristol agrees to provide all engineering services required to bid and construct the Project. Bristol further agrees to provide construction review and inspection services in connection with the Project to provide reasonable assurance that the construction is in compliance with the requirements of the detailed plans and specifications for the Project.

3. ADMINISTRATION:

a. Bristol assumes and agrees to be responsible for the general administration of the Project to include but not be limited to the following services:

- i. Obtaining any required approvals of the Indiana Department of Transportation as required and as needed for the plan and specifications of the Project;
- ii. Acquiring any necessary rights-of-way in accordance with all applicable legal requirements and the INDOT Agreement;
- iii. Bidding the Project in compliance with governmental requirements applicable to the INDOT Agreement;
- iv. Awarding the bid and contracting with the successful bidder as required by and in compliance with the INDOT Agreement and the applicable statutes governing the Town and the awarding of bids and contracts for public projects;
- v. Providing utility and other relocation for the Project as required by the INDOT Agreement;

- vi. Maintaining the documents, contracts, notices, and other records in connection with the Project including the financial records and providing a financial summary to Elkhart County for all funds received and expended in connection with the Project;
- vii. Satisfying and complying with the applicable requirements of the Indiana Code and the INDOT Agreement in connection with the Project; and
- viii. Providing such other general administrative services as are necessary to complete the Project.

b. Pursuant to Indiana Code Section 36-1-7-3, Elkhart County and Bristol assume and agree to be jointly responsible for the general administration of this Agreement in accordance with the following provisions:

- i. A joint board consisting of the President of the Elkhart County Commissioners, President of the Bristol Town Council, Elkhart County Administrator, and Bristol Town Manager shall meet as necessary for the administration, implementation, and interpretation of this Agreement;
- ii. In the event the joint board is not able to resolve any differences with respect to the administration, implementation, or interpretation of this Agreement, such differences shall be referred to the Elkhart County Commissioners and Bristol Town Council for resolution.

4. INITIAL FUNDING: Elkhart County agrees to advance as a loan to Bristol up to One Million Five Hundred Thousand Dollars (\$1,500,000.00) towards the initial funding of the Project. Upon and after bidding the contract for the construction of the Project, Bristol may file one or more claims with Elkhart County to draw down the loan funds, or any portion thereof, for the costs associated with the Project, subject to the maximum amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00). The loan may be drawn upon by Bristol in such incremental amounts as Bristol shall require, subject to the maximum amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00). The loan amounts drawn shall bear interest at the rate of two and 00/100 percent (2.00%) per annum, variable rate, after advancement and until paid. The interest rate shall be variable and subject to adjustment on January 1 and July 1 of each year during the term of the loan and its repayment. The interest rate shall be subject to adjustment on those adjustment dates, which interest rates

shall then be in place until the next adjustment date. The interest rate shall be adjusted on the adjustment dates to the interest rate that Elkhart County charges to itself for loans borrowed from its Local Major Moves Construction Fund. The estimated costs of the Project are as reflected on the attached Exhibit A which is hereby incorporated by reference. In the event the actual costs exceed the estimate, Bristol shall be responsible for any additional funding needed for the Project; provided, however, Bristol may request additional funding from Elkhart County but with any additional funding subject to the discretion of Elkhart County and with no obligation upon Elkhart County to advance any additional funding. The loan to be advanced by Elkhart County shall be subject to an appropriation of funds by the Elkhart County Council.

5. REPAYMENT OF LOAN:

a. Pursuant to Indiana Code Section 5-1-14-4 and Indiana Code Sections 36-7-14 et seq., Bristol agrees to repay the loan to Elkhart County and does hereby pledge all of the Tax Incremental Finance (TIF) revenues generated by the South State Road 15 Economic Development Area to Elkhart County for repayment of the loan advanced by Elkhart County for the Project. Bristol agrees that payments to Elkhart County will commence the first January 15th or July 15th after the loan is advanced by Elkhart County, but with no guarantee as to the amount of payment at said time. Upon full repayment of the funds advanced for the Project by Elkhart County with interest, Bristol may end the pledge of TIF revenues and discontinue payments to Elkhart County. It is the expectation of Elkhart County that Bristol will exercise its best efforts to investigate and utilize any and all available sources of funding in addition to the TIF revenues in order to repay all funds borrowed for the Project by December 31, 2022.

b. As long as any loan amount remains outstanding, this Agreement and the pledge of TIF revenues from the South State Road 15 Economic Development Area provided herein shall continue on unconditionally. Bristol covenants and agrees that so long as any amounts are outstanding to Elkhart County pursuant to the loan made under this Agreement, TIF revenues pledged herein from the South State Road 15 Economic Development Area and held in the Allocation Fund and INDOT reimbursements as provided hereinafter will be continuously and exclusively appropriated for payment to Elkhart County by Bristol for application on the repayment of the loan under this Agreement. Bristol agrees to complete the process for the approval of a continuing appropriation ordinance for these purposes to be provided in the form as is attached hereto as Exhibit B.

c. Notwithstanding any provision of this Agreement or the proceedings relating to the establishment of the South State Road 15 Economic Development Area to the contrary, so long as any loan amounts remain outstanding to Elkhart County, Bristol shall not take any action, or fail to take any action, that could reduce, terminate, or otherwise adversely affect the allocation of any tax increment from the South State Road 15 Economic Development Area to Elkhart County under this Agreement without prior notice to and the approval of the Elkhart County Council. Bristol agrees not to issue any bonds or enter into any leases payable from the TIF revenues pledged from the South State Road 15 Economic Development Area so long as any loan amounts remain outstanding to Elkhart County pursuant to the terms and provisions of this Agreement without prior notice to and the approval of the Elkhart County Council. Payment of the TIF revenues pledged pursuant to this Agreement for application on the repayment of the loan to Elkhart County shall be due and payable by Bristol to Elkhart County within thirty (30) days after distribution of the TIF revenues semiannually by the Elkhart County Auditor.

d. Bristol anticipates receiving from INDOT under the INDOT Agreement a reimbursement of up to Five Hundred Thousand Dollars (\$500,000.00) for a portion of the Project cost. Bristol further agrees to and does hereby pledge any and all Project cost reimbursements received from INDOT under the INDOT Agreement to Elkhart County for repayment on the loan advanced by Elkhart County for the Project. Bristol agrees that payments to Elkhart County will be made within thirty (30) days after any reimbursements are received from INDOT under the INDOT Agreement for the Project.

e. In addition to the above and foregoing provisions, Bristol promises and agrees to repay the outstanding principal balance on the loan advanced by Elkhart County with all accrued and accruing interest no later than December 31, 2025. Full and final payment shall be made on the loan by December 31, 2025 regardless of whether the TIF revenues from the South State Road 15 Economic Development Area have been sufficient to repay the loan. Prepayment of the loan, in whole or in part, is permitted without penalty.

f. This Agreement is being established pursuant to the provisions of Indiana Code Section 36-1-7-3; Bristol and Elkhart County specifically acknowledge and agree that it is their intent that Indiana Code Section 36-1-7-9 not apply to this Agreement. If at any time it would be determined by a court of competent jurisdiction or a state agency with audit or regulatory authority over this Agreement that the provisions of Indiana Code Section 36-1-7-9 or any other statutory provision limit the term of the loan, Bristol and Elkhart County hereby agree to administer this Agreement in such manner that the loan shall

be automatically renewable in consecutive four-year terms with the loan provisions identical to those contained herein, unless either party would give written notice to the other party of its intent to terminate the automatic renewals at least six (6) months prior to the expiration of any four-year term. In the event of such termination, the outstanding principal balance of the loan and all accrued interest shall be due and payable upon the expiration of the then existing four-year term. The party requesting termination shall be responsible for any costs or expenses incurred by the non-terminating party as a result of the non-renewal.

6. OWNERSHIP OF THE ROAD FACILITIES: The ownership of the municipal road facilities of Bristol and any expanded or upgraded road facilities associated with the Project shall remain under the ownership of Bristol or INDOT, as to their respective jurisdictions, to be operated and maintained by Bristol and INDOT as a part of their road facilities. Elkhart County shall not acquire any operational or ownership rights with respect to the Project under this Agreement as a result of the funding provided herein or otherwise.

7. FILING REQUIREMENTS: Within thirty (30) days after the approval and execution of this Agreement, Elkhart County shall have this Agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana statute.

8. SUPPLEMENTAL DOCUMENTS: Elkhart County and Bristol agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

9. LIMITATIONS OF LIABILITY FOR PROJECT ACTIVITY: Bristol acknowledges that Elkhart County shall not be liable to Bristol or to any party for completion of or the failure to complete any activities which are an obligation of Bristol to perform pursuant to this Agreement in regard to the Project hereunder, and Bristol agrees to indemnify, defend, and hold harmless Elkhart County and its elected and appointed officials, employees, agents, and representatives from all claims, demands, actions, and causes of action of any nature whatsoever arising from this Agreement pursuant to any obligations, actions, or omissions of Bristol, including compliance with or the failure to comply with the INDOT Agreement, from all judgments therefore, and for expenses in defending or appealing said claims or judgments, including without limitation court costs, attorney fees, and other expenses.

10. SEVERABILITY: The provisions in this Agreement are hereby deemed to be severable to the effect that if any provision shall be declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

11. NON-DISCRIMINATION: Pursuant to Indiana Code Section 22-9-1-10, neither Bristol nor any of its contractors or subcontractors for the Project shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms, or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

12. GOVERNING LAW: The validity, performance, construction, and effect of this Agreement shall be governed by the laws of the State of Indiana, without regard to the provisions for choice of law thereunder.

13. COMPLETE AGREEMENT: This Agreement constitutes the entire and complete agreement between the parties with respect to its subject matter; supersedes any prior discussions, negotiations, and understanding between them; and cannot be altered, amended, or terminated without the written agreement of both parties participating herein. The parties acknowledge that neither Elkhart County, nor Bristol, nor any of their employees, agents, or other representatives have made any representations relied upon by any other party other than the agreements contained herein.

14. ACCESS TO RECORDS: Bristol agrees that Elkhart County and its duly appointed and authorized agents and representatives shall have full and free access to all documents and records maintained in connection with the Project during regular business hours upon reasonable advance notice.

15. BINDING EFFECT: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, no assignment of this Agreement shall be permitted without the express written consent of Bristol and Elkhart County.

16. TERMINATION: This Agreement shall automatically terminate and expire upon full repayment of the loan by Bristol to Elkhart County in accordance with the terms and provisions of Paragraph Five

(5) of this Agreement. The Provisions of Paragraph Nine (9) of this Agreement shall survive the termination and expiration of this Agreement.

IN WITNESS WHEREOF, Bristol and Elkhart County have executed this Agreement effective the date and year first above written.

BRISTOL REDEVELOPMENT COMMISSION

By: _____,
_____, Presiding Officer

ATTEST:

By: _____,
_____, Secretary/Acting
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State this ____ day of _____, 2013, personally appeared the Bristol Redevelopment Commission by _____, its _____ and _____, its _____ and acknowledged that as said officers they executed the foregoing Agreement for and on behalf and in the name of said Redevelopment Commission for the uses and purposes therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

_____, Notary Public
Resident of Elkhart County, IN

My Commission Expires: _____

TOWN COUNCIL OF THE TOWN OF BRISTOL,
INDIANA

By: _____,
_____, President

By: _____,
_____, Member

By: _____,
_____, Member

By: _____,
_____, Member

ATTEST:

By: _____,
_____, Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State this ___ day of _____, 2013,
personally appeared the Town Council of the Town of Bristol, Indiana by _____,
its President; Members: _____, _____, and
_____; and _____, its Clerk-Treasurer, and acknowledged
that as said officers they executed the foregoing Agreement for and on behalf and in the name of said
Town Council for the uses and purposes therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

_____, Notary Public
Resident of Elkhart County, IN

My Commission Expires: _____

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By: _____
Terry J. Rodino, President

By: _____
Mike Yoder, Vice President

By: _____
Frank Lucchese, Member

ATTEST:

By: _____
Pauline E. Graff, Auditor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State this ____ day of _____, 2013, personally appeared the Board of Commissioners of the County of Elkhart by Terry J. Rodino, its President; Mike Yoder, its Vice President; Member Frank Lucchese; and Pauline E. Graff, Elkhart County Auditor, and acknowledged that as said officers they executed the foregoing Agreement for and on behalf and in the name of said Board of Commissioners for the uses and purposes therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

_____, Notary Public
Resident of Elkhart County, IN

My Commission Expires: _____

APPROVAL

The Elkhart County Council for the County of Elkhart, Indiana hereby approves the above and foregoing Interlocal Agreement this ____ day of _____, 2013 and does hereby appropriate One Million Five Hundred Thousand Dollars (\$1,500,000.00) pursuant to the terms and provisions of the above and foregoing Agreement.

ELKHART COUNTY COUNCIL

By: _____
John K. Letherman, President

ATTEST:

Pauline E. Graff, Elkhart County Auditor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State this ____ day of _____, 2013, personally appeared the Elkhart County Council by John K. Letherman, its President, and Pauline E. Graff, Elkhart County Auditor, and acknowledged that as said officers they executed the foregoing Agreement for and on behalf and in the name of said County Council for the uses and purposes therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

_____, Notary Public
Resident of Elkhart County, IN

My Commission Expires: _____

Prepared by Craig M. Buche, Yoder, Ainlay, Ulmer & Buckingham, LLP
130 N. Main Street, P.O. Box 575, Goshen, IN 46527-0575
Telephone: 574-533-1171

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each
Social Security number in this document, unless required by law. Craig M. Buche,
130 N. Main St., P.O. Box 575, Goshen, IN 46527-0575

EXHIBIT A

ESTIMATED PROJECT COSTS

BRISTOL BUSINESS ROUTE - PHASE I	
Preliminary Estimated Construction Costs	
SR 15 Improvements	\$578,187.50
New Roadway & CR 23 Intersection	\$650,977.80
CR 23 Widening	\$241,352.10
CR 10 Cul-de-sac	\$100,944.25
SUB-TOTAL	\$1,571,461.65

Preliminary Estimated Engineering Costs	
Design Engineering	\$115,000.00
Construction Engineering	\$125,000.00
SUB-TOTAL	\$240,000.00

Estimated Project Costs	
Grand Total	\$1,811,461.65

BRISTOL BUSINESS ROUTE - PHASE I SR 15 IMPROVEMENTS					
1	Mobilization and Demobilization	1	LSUM	\$ 25,100.00	\$ 25,100.00
2	Clearing Site	1	LSUM	\$ 35,000.00	\$ 35,000.00
3	Maintenance of Traffic	1	LSUM	\$ 50,000.00	\$ 50,000.00
4	Asphalt Pavement, Remove	1,286	SYD	\$ 5.50	\$ 7,073.00
5	Site Grading	1	LSUM	\$ 50,000.00	\$ 50,000.00
6	Structural Backfill, Undistributed	550	CYD	\$ 4.00	\$ 2,200.00
7	Common Excavation	2,235	CYD	\$ 6.00	\$ 13,410.00
8	Revetment Rip Rap	20	SYD	\$ 35.00	\$ 700.00
9	Geotextile for Rip Rap	20	SYD	\$ 10.00	\$ 200.00
10	15" PVC Storm Sewer	100	LFT	\$ 40.00	\$ 4,000.00
11	INDOT Safety Metal Pipe End Section	2	EA	\$ 1,200.00	\$ 2,400.00
12	Fire Hydrant Assembly Relocation	2	EA	\$ 3,000.00	\$ 6,000.00
13	Casting Adjusted to Grade	3	EA	\$ 500.00	\$ 1,500.00
14	1-1/2" HMA Surface, Type 'C'	344	TON	\$ 72.00	\$ 24,768.00
15	3" HMA Intermediate, Type 'C'	689	TON	\$ 60.00	\$ 41,340.00
16	8" HMA Base, Type 'C'	1,837	TON	\$ 55.00	\$ 101,035.00
17	Compacted Aggregate for Base, No. 53	1,508	TON	\$ 25.00	\$ 37,700.00
18	Compacted Limestone for Surface, No 73	86	TON	\$ 30.00	\$ 2,580.00
19	Tack Coat	2	TON	\$ 330.00	\$ 660.00
20	Sheet Sign w/Legend	100	SFT	\$ 30.00	\$ 3,000.00
21	Sign Post, Square, Steel, Type 1	100	LFT	\$ 11.00	\$ 1,100.00
22	Reset Section Corner Monument	1	EA	\$ 750.00	\$ 750.00
23	Erosion Control	1	LSUM	\$ 15,000.00	\$ 15,000.00
24	Line, Thermoplastic, Solid Yellow, 4"	1,628	LFT	\$ 1.00	\$ 1,628.00
25	Line, Thermoplastic, Solid White, 4"	3,317	LFT	\$ 1.00	\$ 3,317.00
26	Line, Thermoplastic, Solid Yellow, 8"	2,612	LFT	\$ 2.00	\$ 5,224.00
27	Line, Thermoplastic, Solid Yellow, 12"	600	LFT	\$ 3.00	\$ 1,800.00
28	Line, Paint, Solid White, 4"	3,140	LFT	\$ 0.40	\$ 1,256.00
29	Thermoplastic Lane Marking, Arrow	6	EA	\$ 300.00	\$ 1,800.00
30	Thermoplastic Lane Marking, Only	6	EA	\$ 300.00	\$ 1,800.00
31	24" Thermoplastic Stop Bar	114	LFT	\$ 6.00	\$ 684.00
32	Snowplowable Pavement Markings	72	EA	\$ 50.00	\$ 3,600.00
33	Mulched Seeding, Type 'U'	8,000	SYD	\$ 0.50	\$ 4,000.00
34	R/W Contingencies/ Utility Relocate	1	LSUM	\$ 75,000.00	\$ 75,000.00
Subtotal =					\$525,625.00
Construction Contingencies (10%) =					\$52,562.50
Subtotal Engineer's Estimate =					\$578,187.50

BRISTOL BUSINESS ROUTE - PHASE I NEW ROADWAY & CR 23 INTERSECTION					
1	Mobilization and Demobilization	1	LSUM	\$ 28,200.00	\$ 28,200.00
2	Clearing Site	1	LSUM	\$ 10,000.00	\$ 10,000.00
3	Maintenance of Traffic	1	LSUM	\$ 10,000.00	\$ 10,000.00
4	Asphalt Surface Milling	983	SYD	\$ 12.00	\$ 11,796.00
5	Site Grading	1	LSUM	\$ 25,000.00	\$ 25,000.00
6	Structural Backfill, Undistributed	500	CYD	\$ 4.00	\$ 2,000.00
7	Common Excavation	7,884	CYD	\$ 6.00	\$ 47,304.00
8	Revetment Rip Rap	20	SYD	\$ 35.00	\$ 700.00
9	Geotextile for Rip Rap	20	SYD	\$ 10.00	\$ 200.00
10	15" PVC Storm Sewer	100	LFT	\$ 30.00	\$ 3,000.00
11	INDOT Safety Metal Pipe End Section	2	EA	\$ 1,200.00	\$ 2,400.00
12	Concrete Center Curb, Type D	1120	SYD	\$ 36.00	\$ 40,320.00
13	1-1/2" HMA Surface, Type 'C'	700	TON	\$ 72.00	\$ 50,400.00
14	3" HMA Intermediate, Type 'C'	1229	TON	\$ 60.00	\$ 73,740.00
15	8" HMA Base, Type 'C'	3,277	TON	\$ 55.00	\$ 180,235.00
16	Compacted Aggregate for Base, No. 53	2,728	TON	\$ 25.00	\$ 68,200.00
17	Compacted Limestone for Surface, No 73	164	TON	\$ 30.00	\$ 4,920.00
18	Tack Coat	2	TON	\$ 330.00	\$ 660.00
19	Sheet Sign w/Legend	100	SFT	\$ 30.00	\$ 3,000.00
20	Sign Post, Square, Steel, Type 1	100	LFT	\$ 11.00	\$ 1,100.00
21	Erosion Control	1	LSUM	\$ 10,000.00	\$ 10,000.00
22	Line, Thermoplastic, Solid Yellow, 4"	724	LFT	\$ 1.00	\$ 724.00
23	Line, Thermoplastic, Solid White, 4"	3763	LFT	\$ 1.00	\$ 3,763.00
24	Line, Thermoplastic, Solid Yellow, 8"	1,693	LFT	\$ 2.00	\$ 3,386.00
25	Line, Thermoplastic, Solid Yellow, 12"	600	LFT	\$ 3.00	\$ 1,800.00
26	Thermoplastic Lane Marking, Arrow	7	EA	\$ 300.00	\$ 2,100.00
27	Thermoplastic Lane Marking, Only	7	EA	\$ 300.00	\$ 2,100.00
28	24" Thermoplastic Stop Bar	125	LFT	\$ 6.00	\$ 750.00
29	Mulched Seeding, Type 'U'	8,000	SYD	\$ 0.50	\$ 4,000.00
Subtotal =					\$591,798.00
Construction Contingencies (10%) =					\$59,179.80
Subtotal Engineer's Estimate =					\$650,977.80

BRISTOL BUSINESS ROUTE - PHASE I CR 23 WIDENING					
1	Mobilization and Demobilization	1	LSUM	\$ 10,500.00	\$ 10,500.00
2	Clearing Site	1	LSUM	\$ 10,000.00	\$ 10,000.00
3	Maintenance of Traffic	1	LSUM	\$ 25,000.00	\$ 25,000.00
4	Asphalt Surface Milling	2223	SYD	\$ 5.00	\$ 11,115.00
5	Site Grading	1	LSUM	\$ 10,000.00	\$ 10,000.00
6	Structural Backfill, Undistributed	500	CYD	\$ 4.00	\$ 2,000.00
7	Common Excavation	397	CYD	\$ 6.00	\$ 2,382.00
8	Revetment Rip Rap	40	SYD	\$ 35.00	\$ 1,400.00
9	Geotextile for Rip Rap	40	SYD	\$ 10.00	\$ 400.00
10	15" PVC Storm Sewer	200	LFT	\$ 30.00	\$ 6,000.00
11	INDOT Safety Metal Pipe End Section	4	EA	\$ 1,200.00	\$ 4,800.00
12	1-1/2" HMA Surface, Type 'C'	261	TON	\$ 72.00	\$ 18,792.00
13	3" HMA Intermediate, Type 'C'	153	TON	\$ 60.00	\$ 9,180.00
14	5" HMA Base, Type 'C'	254	TON	\$ 55.00	\$ 13,970.00
15	Compacted Aggregate for Base, No. 53	494	TON	\$ 25.00	\$ 12,350.00
16	Compacted Limestone for Surface, No 73	124	TON	\$ 30.00	\$ 3,720.00
17	Tack Coat	1	TON	\$ 330.00	\$ 330.00
18	Sheet Sign w/Legend	100	SFT	\$ 30.00	\$ 3,000.00
19	Sign Post, Square, Steel, Type 1	100	LFT	\$ 11.00	\$ 1,100.00
20	Erosion Control	1	LSUM	\$ 5,000.00	\$ 5,000.00
21	HMA Approach Pavement	330	SYD	\$ 40.00	\$ 13,200.00
22	Line, Thermoplastic, Skip Yellow, 4"	900	LFT	\$ 1.00	\$ 900.00
23	Line, Thermoplastic, Solid Yellow, 4"	200	LFT	\$ 1.00	\$ 200.00
24	24" Thermoplastic Stop Bar	12	LFT	\$ 6.00	\$ 72.00
25	Mulched Seeding, Type 'U'	8,000	SYD	\$ 0.50	\$ 4,000.00
26	R/W Contingencies/ Utility Relocate	1	LSUM	\$ 50,000.00	\$ 50,000.00
Subtotal =					\$219,411.00
Construction Contingencies (10%) =					\$21,941.10
Subtotal Engineer's Estimate =					\$241,352.10

BRISTOL BUSINESS ROUTE - PHASE I CUI-DE-SAC					
1	Mobilization and Demobilization	1	LSUM	\$ 4,400.00	\$ 4,400.00
2	Clearing Site	1	LSUM	\$ 1,500.00	\$ 1,500.00
3	Maintenance of Traffic	1	LSUM	\$ 8,500.00	\$ 8,500.00
4	Asphalt Pavement, Remove	957	SYD	\$ 5.50	\$ 5,263.50
5	Site Grading	1	LSUM	\$ 3,500.00	\$ 3,500.00
6	Structural Backfill, Undistributed	100	CYD	\$ 4.00	\$ 400.00
7	Common Excavation	662	CYD	\$ 6.00	\$ 3,972.00
8	1-1/2" HMA Surface, Type 'C'	126	TON	\$ 72.00	\$ 9,072.00
9	3" HMA Intermediate, Type 'C'	254	TON	\$ 60.00	\$ 15,240.00
10	5" HMA Base, Type 'C'	423	TON	\$ 55.00	\$ 23,265.00
11	Compacted Aggregate for Base, No. 53	513	TON	\$ 25.00	\$ 12,825.00
12	Tack Coat	1	TON	\$ 330.00	\$ 330.00
13	Erosion Control	1	LSUM	\$ 3,000.00	\$ 3,000.00
14	Mulched Seeding, Type 'U'	1,000	SYD	\$ 0.50	\$ 500.00
Subtotal =					\$91,767.50
Construction Contingencies (10%) =					\$9,176.75
Subtotal Engineer's Estimate =					\$100,944.25

EXHIBIT B

**CONTINUING APPROPRIATION ORDINANCE FOR THE INTERLOCAL
AGREEMENT BETWEEN THE TOWN OF BRISTOL, INDIANA AND
THE COUNTY OF ELKHART, INDIANA**

WHEREAS the Town of Bristol, Indiana and the Bristol Redevelopment Commission entered into an Interlocal Agreement with the County of Elkhart, Indiana dated _____, 2013 for economic development purposes associated with the South State Road 15 Economic Development Area;

WHEREAS the Town of Bristol, Indiana and the Bristol Redevelopment Commission pledged certain tax incremental financing funds generated by the South State Road 15 Economic Development Area and INDOT reimbursements to the County of Elkhart, Indiana for repayment on a loan advanced by the County of Elkhart, Indiana in order to assist in the financing of the road and intersection improvement project to enhance road access for the South State Road 15 Economic Development Area in order to accommodate economic development within the South State Road 15 Economic Development Area;

WHEREAS the loan obligation requires a continuing appropriation of the tax incremental financing funds and INDOT reimbursements pledged for repayment purposes to secure the financial viability of the loan in favor of Elkhart County;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Bristol, Indiana:

1. Pursuant to Indiana Code Section 5-1-2-1, continuing appropriation of capital project funds is hereby made for the tax incremental financing funds generated by the South State Road 15 Economic Development Area and for INDOT reimbursements received for the Project in favor of the County of Elkhart, Indiana pursuant to the Interlocal Agreement between the Town of Bristol, Indiana; the Bristol Redevelopment Commission; and the County of Elkhart, Indiana dated _____, 2013 and recorded _____, 2013 as Instrument No. 2013-_____, Elkhart County Records. The continuing appropriation is made for purposes of repayment and application to the County of Elkhart, Indiana loan advanced for the

Project as specified in the Interlocal Agreement with respect to the pending road and intersection improvement project for the South State Road 15 Economic Development Area.

2. This Ordinance shall take effect immediately upon its adoption and continue until the loan is fully paid and satisfied.

DATED this ____ day of _____, 2013.

TOWN COUNCIL OF THE TOWN OF
BRISTOL, INDIANA

By: _____,
_____, President

By: _____,
_____, Member

By: _____,
_____, Member

By: _____,
_____, Member

ATTEST:

_____, Bristol Clerk-Treasurer

**ELKHART COUNTY
ADDITIONAL APPROPRIATION REQUEST**

DATE 7-19-2013

DEPARTMENT

Commissioners
NAME

342/980
NUMBER

	AMOUNT REQUESTED	PROJ. NO.	ACCOUNT/PROJECT NAME	ACCT. NO.	FUND NAME	FUND NO		
1	1,500,000	1302	Cons/Recons	4730	Major Moves-Construction	342		
2								
3								
4								
5								
6								
7								
8								
TOTAL	1,500,000							
	ORIGINAL AMOUNT		If Prior Add'l Appropriation Was Approved This Year	Can Transfers Be Effectcd		APPROVED BY COUNCIL		
	Approp. as of Date							
			AMOUNT	DATE	YES	NO	Amount	Date

REASON FOR REQUEST Funds to be loaned to the Town of Bristol to allow for a new road access and intersection with State Road 15 and the State Road 15 Economic Development Area. Terms & conditions of the loan are set forth in the Interlocal Agreement to be entered into between the Town of Bristol & Elkhart County.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board accepted the Weights & Measures report for July 16th-August 15th, 2013 and placed it on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board gave approval of the closure of CR 131 and a small portion of CR 31 on September 14th for the Bonneyville Mill Heritage Day, as requested by Larry Neff, Director of Parks.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

August 12, 2013

President Terry Rodino called the meeting to order at 9:00 a.m. in the Commissioners' meeting room in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Mike Yoder and Frank Lucchese, were also present. Others present were Pauline Graff, County Auditor; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

Chad Clingerman from the Voter's Registration office requested approval of a Precinct Establishment Order Redrawing Certain Precincts in Elkhart County. The recommendation is to adjust the boundaries between precinct Elkhart 01 and precinct Elkhart 07 in order to avoid confusion in municipal elections in the City of Goshen. It would affect 27 voters. The location of the polling places would remain the same.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Precinct Establishment Order Redrawing Certain Precincts and presented. The Order is on file in the Commissioners' office, the Voter's Registration office and the County Clerk's office.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved Change Order No. 5 for an increase of \$187.00 for the Prairie Street Bridge project in Elkhart for Northern Indiana Construction Co., Inc., as requested by Jeff Taylor, Manager of Transportation. The county is responsible for 20% of the cost.

The change order is as follows:

Contract No: B-33713

Change Order No.: 005

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Page: 1

Contract Information

District: FT. WAYNE DISTRICT

Contract No.: B-33713

AE: Koch, Michael

Letting Date: 07/11/2012

PE/S: Wills, Dale

Status: Draft

Change Order Information

Date Generated: 00/00/0000

Reason Code: ERRORS & OMISSIONS, Materials Related

Description: Seed, Type U

Change Order No.: 005

Date Approved: 00/00/0000

EWA: Y or Force Acct: N

Original Contract Amount	\$ 1,951,446.90	
Current Change Order Amount	\$ 187.00	Percent: 0.010 %
Total Previous Approved Changes	\$ 3,900.00	Percent: 0.200 %
Total Change To-Date	\$ 4,087.00	Percent: 0.210 %
Modified Contract Amount	\$ 1,955,533.90	

Time Extension Information

Date Initiated 00/00/0000

Date Completed 00/00/0000

Original Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SP Date 00/00/0000 or SP Days

(SS = Standard Specification, SP = Special Provision)

Time Element Description:

Current Time Extension

SS Days 0 SP Days 0 SP Days Value \$ 0.00

Previous Time Approved

SS Days by AE: _____ DCE: _____ SCE: _____ DDCM: _____

SS Days _____ SP Days Value \$ _____

Revised Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SS Date 00/00/0000 or SP Days 0

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Review and Approval Information

Required Approval Authority (\$ per Change Order) (Days per Contract) AE: _____ DCE: _____ SCE: _____ * DDCM: _____ *
 (- LE \$ 250K-) (- LE \$ 750K -) (- LE \$ 2 M --) (-- GT \$ 2 M --)
 (50 SS days) (100 SS days) (200 SS Days) (GT 200 SS days)

Verbal Approval Required? Y / N If Y, by _____ Date Issued _____

Total Change To-Date > 5%? Y / N If Y, Copy to Program Budget Manager _____

Scope/Design Recommendation Required? Y / N If Y, Referred to Project Manager (PM) _____
 Date to PM _____ Date Returned _____

Approval Authority Concurs with PM? Y / N If Y, Concurrence by _____ Date _____
 If N, Resolution: Approved _____ Disapproved _____
 Resolved by _____ Date _____

LPA Signatures Required? Y / N If Y, Date to LPA _____ Date Returned _____

FHWA Signatures Required? Y / N If Y, Date to FHWA _____ Date Returned _____

* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer _____ Date _____

Comments: _____

Contract No: B-33713
Change Order No: 005

INDIANA
Department of Transportation

Date: 08/02/2013
Page: 3

Contract: B-33713
Project: 0902305 - State: 0902305
Change Order Nbr: 005
Change Order Description: Seed, Type U
Reason Code: ERRORS & OMISSIONS, Materials Related

GLN	PCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0095	0902305	0095	621-06554	LBS	7.480	25.000	C	187.00

Item Description: SEED MIXTURE U
Supplemental Description 1: Item added to pay for seeding work done
Supplemental Description 2: No pay item in original bid for this type of seed

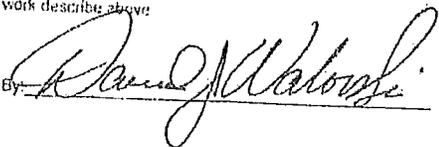
Total Value for Change Order 005 = \$ 187.00

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.

Change Order Explanation for Specific Line Item

.....
It is the intent of the parties that this change order is full and complete compensation for the work describe above.
Notification and consent to this change order is hereby acknowledged

Contractor: NORTHERN INDIANA CONST.

Signed By: 

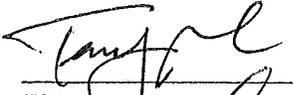
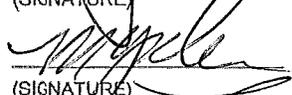
Date: 8-2-13

.....
NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No: B-33713
Change Order No: 005

INDIANA
Department of Transportation

Date: 08/02/2013
Page: 4

APPROVED FOR LOCAL PUBLIC AGENCY

(SIGNATURE) President, Commissioners
(TITLE) 8-12-13
(DATE)

(SIGNATURE) V. President
(TITLE) 8-12-13
(DATE)

(SIGNATURE) Member
(TITLE) 8-12-13
(DATE)

SUBMITTED FOR CONSIDERATION

PE/S _____

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORTATION

Approval Level	Name of Approver	Date	Status
----------------	------------------	------	--------

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an Agreement for the Sale of Real Estate with Emojean D. Abbott, as requested by Tom Byers, County Administrator. This is for county surplus property at 22043 County Road 38, Goshen. Bids for this property and three other parcels were taken at the Commissioners' meeting on August 5th and Ms. Abbott did not bid 90% of the appraised value of the property. She has since agreed to pay 90% of the appraised value of the property, which is \$54,000, and the Commissioners have accepted that amount. Gordon Lord, County Attorney, has prepared the paperwork necessary for the sale. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

August 19, 2013

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Sheriff Brad Rogers; Pauline Graff, County Auditor; Gordon Lord, County Attorney; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Minutes of the August 5th & 13th, 2013 meetings and placed them on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

Duane Burrows from planning and development presented a request for Wayne L. & Barbera J. Schalliol (owner, Lot 1); Almac, Inc. (owner, Lot A) & Mike & Shelli Stutz (Angel Central Academy) (developer), represented by Brads-Ko Engineering & Surveying, Inc., for a zone map change from A-1 to R-4 located on the east side of CR 15, 678 feet south of CR 6, being Lot 1 and Lot A in Streeter's Subdivision in Osolo Township. The Plan Commission has sent this to the Commissioners with a recommendation of approval. He said this is across the street from Eastwood School. Barry Pharis from Brads-Ko Engineering & Surveying, Inc., representing the petitioner explained the project. He said the pre-school originally was in a church and they have outgrown that space. They found a building they could renovate for their use and they leased it. Unfortunately, the building was sold and the owner determined they wanted to use it in other ways. Consequently, the Stutzes' were left with the dilemma of relocating. There was another building that was offered to them for the cost of moving it. They were then offered Lot 1 at a very good price to relocate the building. Mr. Pharis said they contacted the school they were going to locate near and they were in support their plans. He noted that the use for this land can only be used for an owner occupied business. There were no other questions and no one in the audience to speak regarding this rezoning request. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the rezoning from A-1 to R-4 and adopted an ordinance establishing this rezoning.

The Ordinance is as follows:

ORDINANCE NUMBER – PC2013- 09

AN ORDINANCE TO AMEND COUNTY CODE 36-7-4-600 KNOWN AS THE COMPREHENSIVE PLAN OF ZONING FOR ELKHART COUNTY, INDIANA BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM A-1 TO R-4.

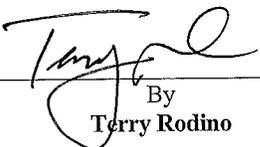
WHEREAS, Wayne L. & Barbera J. Schalliol submitted an application to rezone real estate hereinafter described from A-1 to R-4 and after proper legal notice a public hearing was held as provided by Law, and the Plan Commission did find that all elements of the Law have been met and did on the 11th day of July 2013 recommend a zone change from A-1 to R-4 with a recorded commitment and filed their recommendation for adoption of this Ordinance with the Board of County Commissioners of Elkhart County, Indiana.

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELKHART COUNTY, INDIANA THAT:

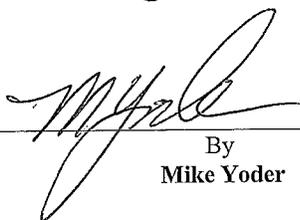
Legal Description
See Attachment "A"

BE rezoned from A-1 to R-4 effective immediately, and the zone maps dated October 30, 1959 and made a part of Article II, Section 2 of the Master Plan of Zoning for Elkhart County, Indiana as amended are hereby ordered amended and changed to reflect the said rezoning of said real estate.

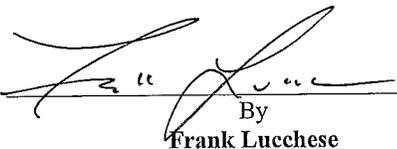
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THIS 19TH DAY OF AUGUST 2013



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 
Pauline E. Graff Auditor for Elkhart County

Attachment "A"

ORDINANCE NUMBER – PC2013-09

LOT NUMBER ONE (1) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF STREETER'S SUBDIVISION, AN ADDITION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 15, PAGE 87 OF THE RECORDS IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, STATE OF INDIANA.

(DEED RECORD 424, PAGE 647)

AND

LOT A AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF STREETER'S SUBDIVISION, AN ADDITION IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA. SAID PLAT BEING RECORDED IN PLAT BOOK 15, PAGE 87 OF THE RECORDS IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, STATE OF INDIANA.

(INSTRUMENT #2003 01070)

Duane Burrows from planning and development presented a request for KLT Realty, Inc. for a zone map change from A-1 to M-1 located on the east side of SR 13, 555 feet north of CR 20 in Middlebury Township. This is being sent to the Commissioners with a favorable recommendation from the Plan Commission. This proposed Ordinance has a requirement with it for a commitment to have a screening of evergreen trees spaced 10 feet on center to be installed along the south property line of the real estate prior to the issuance of a Certificate of Occupancy. There was no one in the audience to speak regarding this request. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the rezoning from A-1 to M-1 and adopted an ordinance with a "CO" (commitment).

The Ordinance is as follows:

ORDINANCE NUMBER – PC2013- 10 CO

AN ORDINANCE TO AMEND COUNTY CODE 36-7-4-600 KNOWN AS THE COMPREHENSIVE PLAN OF ZONING FOR ELKHART COUNTY, INDIANA BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM A-1 TO M-1 WITH A RECORDED COMMITMENT.

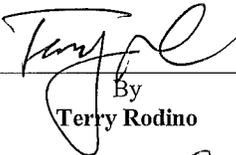
WHEREAS, KLT Realty, Inc. submitted an application to rezone real estate hereinafter described from A-1 to M-1 and after proper legal notice a public hearing was held as provided by Law, and the Plan Commission did find that all elements of the Law have been met and did on the 11th day of July 2013 recommend a zone change from A-1 to M-1 with a recorded commitment and filed their recommendation for adoption of this Ordinance with the Board of County Commissioners of Elkhart County, Indiana.

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELKHART COUNTY, INDIANA THAT:

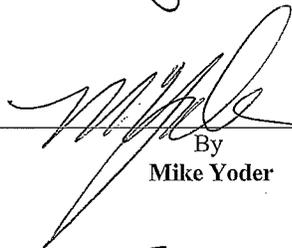
Legal Description
See Attachment "A"

BE rezoned from A-1 to M-1 effective immediately, and the zone maps dated October 30, 1959 and made a part of Article II, Section 2 of the Master Plan of Zoning for Elkhart County, Indiana as amended are hereby ordered amended and changed to reflect the said rezoning of said real estate.

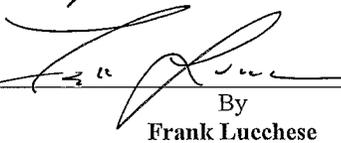
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THIS 19TH DAY OF AUGUST 2013



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 
Pauline E. Graff Auditor for Elkhart County

ORDINANCE NUMBER – PC2013- 10 CO

A part of the Southeast Quarter (SE ¼) of Section Twenty-two (22), Township Thirty-seven (37) North, Range Seven (7) East, Middlebury Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a Harrison monument marking the southwest corner of the Southeast ¼ of said Section 22; thence north 00 degrees 00 minutes 00 seconds east (assumed bearing) along the west lien of said Southeast ¼ and the centerline of State Highway 13, a distance of 433.50 feet to the northwest corner of land owned by Linford D. and Elaine Martin (Instrument #99-19000) and the beginning of this description; thence

- 1) Continuing north 00 degrees 00 minutes 00 seconds east along said lines, a distance of 209.03 feet to the southwest corner of land owned by Valerie Nusbaum (Instrument #99-16002); thence
- 2) South 89 degrees 09 minutes 41 seconds east along the south line of said Nusbaum land, a distance of 626.00 feet to the southeast corner of said Nusbaum land; thence
- 3) South 06 degrees 17 minutes 19 seconds west, a distance of 209.96 feet to the northeast corner of said Martin land; thence
- 4) North 89 degrees 09 minutes 41 seconds west along the north line of said Martin land, a distance of 603.00 feet to the beginning.

Containing 2.95 acres, more or less.

Subject to public rights-of-way and all easements and restrictions of record.

Being tax code number 20-08-22-451-017.000-034.

Brian Mabry from planning and development presented a request for Larry Eugene & Judith Ann Farver, represented by B. Doriot & Associates, for a zone map change from A-1 to a DPUD-A-1 to be known as Farver's Farm DPUD located on the west side of CR 21, 2,300 feet south of CR 40 in Elkhart Township. The Plan Commission has recommended approval of the zone map change. Mr. Mabry said this is a long rectangular piece of property of 11+ acres. There is a home on it now & they are adding an additional 6 lots. The reason for the DPUD is to allow for a private access as a driveway for the lots. There are covenants that would be attached to the ordinance if it is approved. Mr. Yoder questioned the private road issue for this DPUD. There was no one in the audience to speak regarding this request. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

Mr. Yoder asked about the private road. Mr. Mabry said it is paved now. Another issue is the mailboxes and addresses for the lots. The present home has a CR 21 address but not all of the lots in the DPUD will have CR 21 frontage for addresses. Private roads have also been an issue in the county when the developer is no longer maintaining the roads in the DPUD and there have not been any covenants or restrictions recorded. Tom Byers, county administrator, commented that the way this DPUD is laid out, you will only be able to address these properties on CR 21 as the postal service does not want to go down an easement & will want the mailboxes along CR 21. Barry Pharis from Brads-Ko Engineering & Surveying noted that when he has prepared a DPUD for private streets in the county, one of the things they always include is a cross maintenance cross access easement agreement prepared by an attorney, recorded & referenced to the DPUD. That spells out the responsibilities of the homeowners and sets in place a format that doesn't have the county get involved with these "what if" issues. Mr. Mabry said the proposed ordinance for this DPUD does have some covenants but not as extensive as Mr. Pharis or Mr. Yoder have suggested. The farming operations that were mentioned at the plan commission meeting were addressed. Mr. Yoder feels this DPUD is a little loose. Mr. Lord said the Commissioners could add a requirement to the ordinance if that would be more fitting. Mr. Yoder noted that in the past, homeowners have discovered they were responsible for certain items in the subdivision that they weren't aware of when they purchased the property and it causes big problems. He suggested this be tabled today until this can be worked out.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board tabled the rezoning request and the secondary approval for the DPUD until the developer has all of the items discussed put in writing and part of the ordinance.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board gave permission to advertise for bids for the CR 17 between CR 38 & CR 40 project for the highway department, as requested by Jeff Taylor, Manager of Transportation. Bids will be taken at the September 16, 2013 meeting. The completion will be in August 2014.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board accepted initial street acceptance of Jemian Drive-600 feet and Nana Lane-630 feet in Jemian Trace Phase III subdivision, as requested by Jeff Taylor, Manager of Transportation.

Gordon Lord, county attorney, informed the Board that Emojean D. Abbott has agreed to purchase the excess county property at SR 119 and CR 17 that the county received bids for at the August 5th meeting. She agreed to pay 90% of the appraised value which is \$72,000. She wants this property to be in her daughter's name.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an agreement for the purchase of the property at SR 119 and CR

17. Mr. Lord will correct the name on the agreement. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an out-of-state travel request for an employee in the sheriff's department to go to Plano, TX in December for Public Information Officer training.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board accepted the Solid Waste-Landfill report for July 2013 and placed it on file.

Gordon Lord, county attorney, said he has the revised Noise Ordinance ready for adoption if the Commissioners would want to adopt it today. He noted the only new change is the permits will be submitted to the Commissioners' office in writing. The other changes are very minor. The sheriff is comfortable with it.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adopted the Ordinance Amending Ordinance No. 06-520 Relative to the Control of Noise in the Unincorporated Areas of Elkhart County, Indiana.

The Ordinance is as follows:

ORDINANCE NO. 2013- 407

AN ORDINANCE AMENDING ORDINANCE NO. 06-520
RELATIVE TO THE CONTROL OF NOISE IN THE
UNINCORPORATED AREAS OF ELKHART COUNTY, INDIANA

WHEREAS, on the 5th day of September, 2006 the Board of Commissioners of the County of Elkhart, Indiana, as the legislative body for Elkhart County Government ("Commissioners"), adopted Ordinance No. 06-520, labeled "Ordinance Amending Ordinance No. 06-100 Relative to the Control of Noise in the Unincorporated Areas of Elkhart County, Indiana;"

WHEREAS, since adopting such Ordinance, the Commissioners have received feedback and suggestions from the general public, those concerned about noise pollution and the control thereof, and the Elkhart County Sheriff's Department, as to appropriate amendments or alterations to Ordinance No. 06-520;

WHEREAS, the Commissioners find it to be in the best interests of Elkhart County and its citizens to make amendments to Ordinance No. 06-520, and by virtue of such amendments, to totally restate Ordinance No. 06-520, with such amendments included therein:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA as follows:

Section 1. Title. This Elkhart County Ordinance may be referred to as the "Elkhart County Noise Control Ordinance," as updated as of August 19, 2013.

Section 2. Definitions. For purposes of this Ordinance, the following definitions shall apply:

(A) DECIBEL (dB). A unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

(B) A-WEIGHTED SOUND LEVEL. The sound pressure level is decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

(C) NOISE LEVEL. The A-weighted sound level produced by a motor vehicle.

(D) SOUND LEVEL METER. An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting networks used to measure sound pressure levels. Such instrument shall be used for measurement of the intensity of sound and calibrated in decibels as standardized by the American National Standards Institute (ANSU). Readings shall be made on a dB(A) scale.

(E) TERMINATION REQUEST. An oral or written request of any person (to specifically include, but not be limited to, a police officer with general, specific, or limited police powers within the County Area), reasonably addressed to or presented to a person making, continuing, or causing to be made or continued, or permitting, any noise that is reasonably deemed by the requesting person to be contrary to the "General Rule" (defined below), which request seeks that the person to whom it is presented cease, continue, or cause to be stopped or terminated, the making, causing or permitting of such noise.

(F) CONSUMER FIREWORK. For purposes of this Ordinance, "Consumer Firework" shall have the same definition of "Consumer Firework as set forth I.C. § 22-11-14-1, as currently in effect, or as from time to time hereafter adopted or amended.

Section 3. Loud Noises Prohibited.

(A) General Rule. No person shall make, continue or cause to be made or continued any loud, raucous, improper, unreasonable, offensive or unusual noise which

disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others persons within the unincorporated areas of Elkhart County, Indiana ("County Area").

(B) Specific Prohibitions. The following acts among others, are declared to be loud, raucous, or disturbing noises in violation of this Section 3, but such enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn, whistle or signaling device ("Signaling Device") on any automobile, motorcycle, or other vehicle on any street or public place except as a danger warning; the creation by means of any such Signaling Device of any continuous or repeated unreasonably loud or raucous sound; the use of any Signaling Device or other device operated by engine exhaust creating any continuous or repeated unreasonably loud or raucous sounds; and/or the use of any such Signaling Device when motor vehicle traffic upon a public way is for any reason held up, stalled, or delayed, for any reason other than as a danger warning. The operation of any such Signaling Device in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (1), though no Termination Request shall be required for the issuance of a citation under Section 6 of this Ordinance if the operation of any Signaling Device is constant, continued or repeated except as a danger warning. Further, the operation of any such signaling Device which shall violate the "Decibel Base Prohibition" standards of Subsection (C) below shall be *prima facie* evidence of a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(2) Using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, boom box, or other machine or device for the producing or reproducing of sound ("Sound Machine") in such an unreasonable manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time create or cause louder volume than is necessary for

convenient hearing for the person(s) who is a voluntary listener and who is in the room, vehicle, or chamber in which such Sound Machine is operated. The use, operation or permitting of its use or operation, of any such Sound Machine is operated. The use, operation, or permitting of its use or operation, of any such Sound Machine in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (2), though no Termination Request shall be required for the issuance of a citation under Section 6 of this Ordinance if the use, operation, or permitting of any such use or operation, of such Sound Machine is constant, continued, or repeated. Further, the use, operation, or permitting of the use or operation of any such Sound Machine in contravention of the Decibel Base Prohibition of Subsection (C) below, shall be *prima facie* evidence if a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(3) Using, operating or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure ("Public Address Device") in a continuous or repeated unreasonably loud and raucous manner AFTER a Termination Request. The use, operation, or the permitting of the use or operation of such of such Public Address Device in such a manner to be plainly audible at a distance of 50 feet from the building, structure, vehicle, or other site in which it is located after a Termination Request shall be *prima facie* evidence a violation of this Subsection (3). Further, such use, operation, or permitted use or operation of such a Public Address Device in contravention of the Decibel Base Prohibition of Subsection (C) below, shall be *prima facie* evidence of a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(4) The keeping of any animal which by causing unreasonable frequent or long-continued noise shall disturb the comfort or repose of any person in the County Area AFTER a Termination Request.

(5) The use of any automobile, motorcycle, or other vehicle ("Motor Vehicle") so out of repair, to include a failed, broken, or defective muffler or exhaust system, or so loud, or in any other way misused or defective, so as to create an unreasonable sound and/or unnecessary engine noise, or grating, grinding, rattling, or other noise. The use of any such Motor Vehicle in such a manner or condition such that the noise created by such use shall be plainly audible at a distance of 50 feet from the vehicle after a Termination Request shall be *prima facie* evidence of a violation of this Subsection (5), though no Termination Request shall be required for the issuance of a citation under Section 6 of this Ordinance if the noise emanating from such Motor Vehicle is constant, continued, or repeated. Further, such operation of any such Motor Vehicle creating a noise which shall violate the Decibel Base Prohibition standards of Subsection (C) below shall be *prima facie* evidence of a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(6) The operation of any Motor Vehicle in such a manner as to create an unreasonable or excessive noise by the squealing of tires, the rapid acceleration of the vehicle, or the revving of the engine. Further, such operation of any such Motor Vehicle creating a noise which shall violate the Decibel Base Prohibition standards of Subsection (C) below shall be *prima facie* evidence of a violation of this Ordinance.

(7) The creation of an unreasonably loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers AFTER a Termination Request. The creation of any such noise in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this Subsection (7). Further, the creation of any

such noise which shall violate the Decibel Base Prohibition standards of Subsection (C) below shall be *prima facie* evidence of a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(8) The creation of any unreasonably loud or raucous noise on any street or in any area adjacent to a school, institution of learning, church, court facility, or hospital or medical facility ("Institution"), while the same is in use, which noise unreasonably interferes with the workings of such Institution, or persons or patients thereat, provided conspicuous signs are displayed in adjoining streets and/or area to the Institution stating a prohibition on such noise, AFTER a Termination Request. The creation of any such noise in the area of an Institution in such a manner as to be plainly audible at a distance of 50 feet from the point of creation of the same after a Termination Request shall be *prima facie* evidence of a violation of this Subsection (8). Further, the creation of such noise impacting an Institution which shall violate the Decibel Base Prohibition standards of Subsection (C) below shall be *prima facie* evidence of a violation of this Ordinance, irrespective of whether a Termination Request has been made or presented.

(C) Decibel Based Prohibition. In addition to the prohibitions at subsections (1) through (8) above, the following acts are declared to be loud, raucous, or disturbing noises in violation of this Section 3, based on Decibel (dB).

(1) Any noise that exceeds a level of 83 dBA based on a distance from the noise source of not less than 15 feet, and irrespective of the 50 feet standard set forth in subsections (1) through (8) above, shall be *prima facie* evidence of a noise prohibited by this Section 3. All provisions of the immediately preceding sentence to the contrary notwithstanding, noise that creates fewer decibels than 83 dBA from 15 feet also constitutes noise prohibited by this Section 3 if such noise otherwise constitutes a prohibited noise stated in this Section 3. Further, there is not any decibel measurement requirement necessary to prove the existence of a noise prohibited by Section 3.

(D) Additional Prohibitions Unrelated to Termination Request or dBA Level.

(1) The operation by a business of outdoor public address systems within five hundred (500) feet of any residence.

(2) The idling of a tractor as defined by Indiana Code §9-13-2-180, as from time to time amended, between the hours of 9:00 P.M. and 6:00 A.M. within five hundred (500) feet of any residence.

(E) Control of Property. It shall be the duty of every home owner, hotel manager, tavern or inn keeper, the owner or manager of any business in the County, or motor vehicle driver to prevent persons using property under their control from violating this Section 3.

Section 4. Exemptions. The provisions of Section 3 shall not apply to the emission of sound:

(A) For the purpose of alerting persons to the existence of an emergency;

(B) In the performance of work to prevent or alleviate physical or property damage threatened or caused by a public calamity or other emergency;

(C) As part of outside school activities sponsored by a school located within the County area;

(D) As part of outside sporting events, concerts, festivals, fairs, or other public events which are sponsored, permitted, or authorized by any governmental entity;

(E) From equipment or operations utilized for agricultural purposes within a County Area zoned for agriculture;

(F) From equipment or operations utilized for permitted or authorized manufacturing purposes within a County Area zoned for, or subject to a special use permit or variance for, such permitted manufacturing purposes;

(G) For, the use, discharge or ignition of Consumer Firework(s) in the County Area during the following periods (all local time):

(1) Between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June, 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;

(2) Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

Section 5. Permits for Variances to Ordinance.

(A) The Commissioners of Elkhart County shall have the authority to issue permits that allow deviation from the requirements of Section 3 for:

(1) Holidays, celebrations, concerts, parades, or other special events, public or personal; or

(2) Persons who demonstrate that bringing the source of sound or activity for which the permit is sought into compliance with the provisions of Section 3 would constitute an unreasonable hardship on the applicant, the community, or other persons; and that the adverse impact on the health, safety, and welfare of persons affected by the permit has been outweighed by the hardship. Permits may contain any conditions, including a time limit, that is necessary to limit the adverse impact of the activity.

(B) Noncompliance with any condition of the permit shall terminate and subject the person holding it to the provisions of this subsection.

(C) All requests for deviation from the requirements of Section 3 shall be in writing and submitted to the Office of the Commissioners located at:

117 North Second Street

Goshen, IN 46526

Permits, if granted by the Commissioners, may contain and conditions, including a time limit, that are deemed necessary by the Commissioners to limit the adverse impact of the sound or activity; permits, if granted, shall be in writing with any conditions stated therein.

Section 6. Enforcement and Penalties.

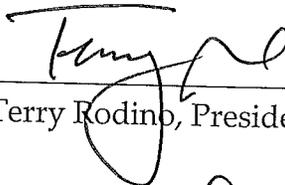
(A) Ordinance violations shall be enforced under proceedings brought pursuant to Indiana Code §34-28-5 et seq., as amended, in a manner similar to that of infractions with complaint and summons described in Indiana Code §9-30-3-6, as amended, issued by the Elkhart County Sheriff's Department or other police agency. Prior to issuing a citation under this Section 6, the Elkhart County Sheriff's Department may issue a warning in an effort to achieve compliance without the necessity of legal action.

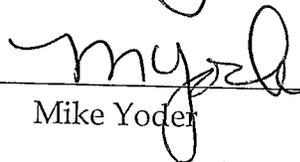
(B) Any person adjudged to have violated any provision of this Ordinance by engaging in conduct prohibited or declared unlawful in Section 3 shall be find no less than Two Hundred Fifty Dollars (\$250) but no more than Two Thousand Five Hundred Dollars (\$2,500) and shall be responsible for all applicable Court costs.

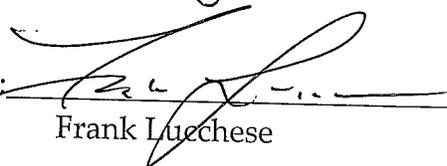
Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after the last to occur of (a) date of passage of this Ordinance by the Commissioners, (b) September 1, 2013, and (c) publication of the adoption of this Ordinance according to law.

Adopted and passed this 19th day of August, 2013.

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By: 
Terry Rodino, President

By: 
Mike Yoder

By: 
Frank Lucchese

ATTEST:


Pauline E. Graff, Elkhart County Auditor

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

August 26, 2013

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Pauline Graff, County Auditor; Tom Byers, County Administrator; and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved two (2) out-of-state travel requests for an employee in Community Corrections to go to Appleton, WI for a MOAB Instructor Training Course and Topeka, KS for a Verbal Defense & Influence Instructor Course both in October.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved final street acceptance of Kimberly Drive-460 feet; Christine Drive-457 feet; Swede Drive-1,311 feet and Virginia Drive-493 feet in Meadow Glen West Section Two and released maintenance surety from Fifth Third Bank for \$28,560, as requested by Jeff Taylor, Manager of Transportation.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved an agreement with David D. Fore to purchase back some public way known as Woodlawn Avenue for \$557.96, as requested by Tom Byers, County Administrator. Mr. Fore had purchased this property in the tax sale only to find out it is actually a street so it was agreed the county would purchase it back for what he paid for it. A copy of the agreement is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved an out-of-state travel request for an employee in the prosecutor's office to go to Atlanta, GA in September for NDAA.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a Contract for Services with the Center for Healing & Hope, Inc. for \$18,262.00 for the health department, as requested by Dr. Nafziger, Health Officer. This will be paid from the tobacco settlement money given to the county and is for clinical services for low income patients. A copy of the Contract for Services is on file in the Commissioners' office.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen