

1998

## 1998 ORDINANCES & RESOLUTIONS

ORDINANCE NUMBER	DATE PASSED	DESCRIPTION
98-687	1/12/1998	ZONING CHANGE DAVIS PROPERTY
98-688	2/9/1998	ZONING CHANGE FOR ED SPRIGLER
98-689	4/13/1998	ISSUE OF WATERWORKS BONDS
98-690	5/22/1998	AMENDMENT OF ORD# 92-519 TRASH PICK UP
98-691	5/1/1998	AMENDMENT OF ORD# 95-615
98-692	1/27/1998	ANNEXATION
98-693	6/8/1998	WATER RATE SERVICE INCREASES
98-694	6/24/1998	SALARY ORDINANCE
98-695	7/27/1998	ZONING CHANGE DANIEL JOHNSON
98-696	8/10/1998	ORDINANCE AMENDMENT TO ORD# 98-691 FLOODING
98-699	9/14/1998	ZONING CHANGE FOR 7409 HWY 31
98-700	10/12/1998	ANNEXATION FOR SPRIGLER
98-701	10/26/1998	TRANSFER OF APPROPRIATIONS
98-702	11/23/1998	TRANSFER OF APPROPRIATIONS
98-703	11/23/1998	AMENDMENT TO ORD# 92-537
98-704	12/14/1998	ZONING AMENDMENT
98-705	12/14/1998	TRANSFER OF APPROPRIATIONS
98-706	12/28/1998	ZONING CHANGE KEITH ALEXANDER
98-707	12/28/1998	TRANSFER OF APPROPRIATIONS
98-708	12/28/1998	TRANSFER OF APPROPRIATIONS

RESOLUTION NUMBER	DATE PASSED	DESCRIPTION
98-46	4/13/1998	ECONOMIC REVITALIZATION
98-47	5/11/1998	DEED TO FIRE DISTRICT
98-48	6/8/1998	FISCAL PLAN
98-50	7/13/1998	CABLE TV TRANSFER
98-51	8/10/1998	STREET NAME CHANGE

98-687

ORDINANCE NO. 97-\_\_\_\_\_

AN ORDINANCE AUTHORIZING ZONING CHANGE WITHIN THE TOWN OF SELLERSBURG, INDIANA

WHEREAS, the Town of Sellersburg Plan Commission has received a Petition requesting a change of zoning for a certain parcel of real property commonly known as the Paul E. Davis and Lucille Davis property located within the Town of Sellersburg, Indiana, as set out herein; and,

WHEREAS, the Town of Sellersburg Plan Commission has reviewed the Petition requesting a change of zoning; and,

WHEREAS, the Town of Sellersburg Plan Commission determined that the Petition requesting a change of zoning complied with the requirements of Section 3.4.4 of the Zoning Ordinances of the Town of Sellersburg; and,

WHEREAS, the Town of Sellersburg Plan Commission has approved zoning change and recommended to the Sellersburg Town Council that said Petition for zoning change be approved; and,

WHEREAS, the Sellersburg Town Council has applied the standards and requirements as set out in Section 3.4.4(5) and has determined the requests for zoning change meets these standards and requirements; and,

WHEREAS, the Sellersburg Town Council has determined that the herein Ordinance will provide for the effective administration of Town Government; and,

WHEREAS, this matter was considered at a public meeting at which the public were invited to attend and participate.

IT IS, THEREFORE, NOW ORDAINED BY THE SELLERSBURG TOWN COUNCIL AS FOLLOWS:


THAT A CERTAIN PARCEL OF REAL PROPERTY COMMONLY KNOWN AS THE PAUL E. DAVIS AND LUCILLE DAVIS PROPERTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

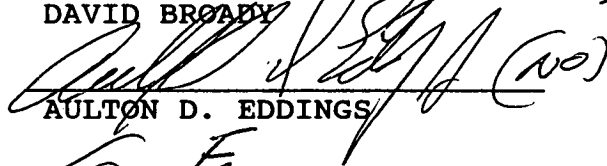
A PART OF SURVEY NO. 66 OF THE ILLINOIS GRANT IN THE TOWN OF SELLERSBURG OF CLARK COUNTY, INDIANA, BEING PART OF THE SAME 27.880 ACRE TRACT CONVEYED TO PAUL E. AND LUCILLE DAVIS AT DEED DRAWER 3, INSTRUMENT NO. 2868, AND BEING THE NORTHEASTERN 7.87 ACRES OF SAID PROPERTY, BOUNDED AS FOLLOWS: BEGINNING AT THE MOST NORTHERLY CORNER OF SAID TRACT, POINT BEING IN THE SOUTHEASTERN LINE OF GREENWOOD SUBDIVISION UNIT 3. THENCE THE FOLLOWING COURSES OF THE BOUNDARY: SOUTH 39 DEG. 46 MIN. 36 SEC. EAST, 989.50 FEET ALONG THE NORTHEASTERN LINE OF DAVIS TO THE NORTHWESTERN LINE OF DIAMOND HEIGHTS SUBDIVISION UNIT III; SOUTH 48 DEG. 53 MIN. 30 SEC. WEST,

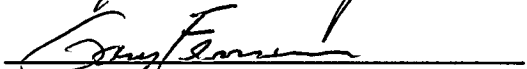
468.47 FEET ALONG THE LINE OF SAID DIAMOND HEIGHTS TO A POINT; NORTH 40 DEG. 41 MIN. 23 SEC. WEST, 393.66 FEET LEAVING SAID LINE TO A POINT; NORTH 52 DEG. 41 MIN. 26 SEC. EAST, 204.44 FEET TO A POINT; NORTH 38 DEG. 34 MIN. 03 SEC. WEST, 621.45 FEET TO THE SOUTHEASTERN LINE OF SAID GREENWOOD SUBDIVISION; NORTH 51 DEG. 30 MIN. 00 SEC. EAST, 257.32 FEET ALONG THE SOUTHEASTERN LINE OF SAID GREENWOOD SUBDIVISION TO THE PLACE OF BEGINNING, CONTAINING 7.87 ACRES, MORE OR LESS.

IS HEREBY REZONED AND THE CURRENT ZONING OF R-1 OF THE DESCRIBED AREA IS REZONED TO R-3.

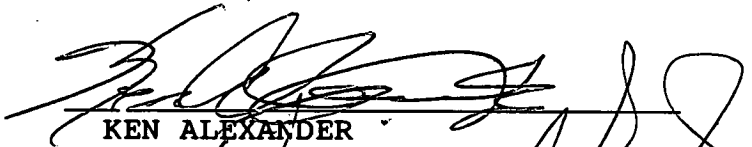
DATED: JANUARY 12, 1998.

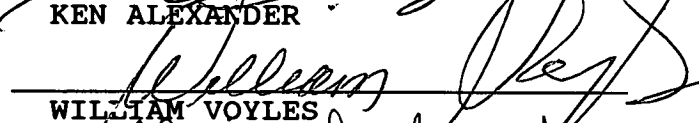
  
\_\_\_\_\_  
DAVID BROADY

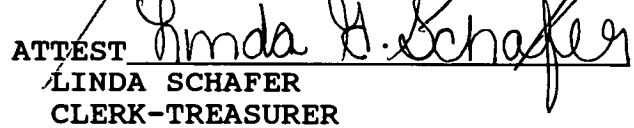
  
\_\_\_\_\_  
AULTON D. EDDINGS

  
\_\_\_\_\_  
GARY FENNER

c:\CLIENT\REZONING\DAVIS\ORD

  
\_\_\_\_\_  
KEN ALEXANDER

  
\_\_\_\_\_  
WILLIAM VOYLES

ATTEST   
\_\_\_\_\_  
LINDA SCHAFFER  
CLERK-TREASURER

ORDINANCE NO. 98- 688

**AN ORDINANCE AUTHORIZING ZONING CHANGE WITHIN THE  
TOWN OF SELLERSBURG, INDIANA**

WHEREAS, the Town of Sellersburg Plan Commission has received a Petition requesting a change of zoning for a certain parcel of real property currently being developed by Ed Sprigler said property located within the Town of Sellersburg, Indiana, as set out herein; and,

WHEREAS, the Town of Sellersburg Plan Commission has reviewed the Petition requesting a change of zoning; and,

WHEREAS, the Town of Sellersburg Plan Commission determined that the Petition requesting a change of zoning complied with the requirements of Section 3.4.4 of the Zoning Ordinances of the Town of Sellersburg; and,

WHEREAS, the Town of Sellersburg Plan Commission has approved zoning change and recommended to the Sellersburg Town Council that said Petition for zoning change be approved; and,

WHEREAS, the Town of Sellersburg Town Council has applied the standards and requirements as set out in Section 3.4.4(5) and has determined the request for zoning change meets these standards and requirements; and,

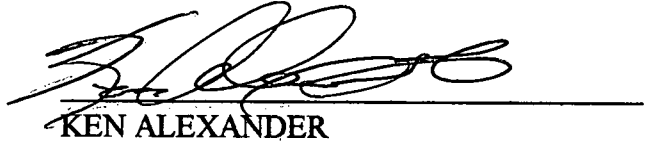
WHEREAS, the Sellersburg Town Council has determined that the herein Ordinance will provide for the effective administration of Town Government; and,

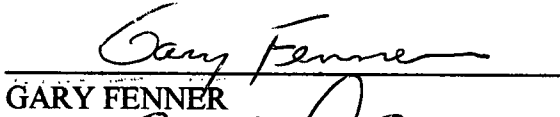
WHEREAS, this matter was considered at a public meeting at which the public were invited to attend and participate.

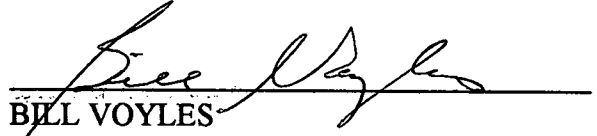
IT IS THEREFORE, NOW ORDAINED BY THE SELLERSBURG TOWN COUNCIL AS FOLLOWS THAT THE ATTACHED DESCRIBED REAL PROPERTY AS CONTAINED IN "EXHIBIT A" IS HEREBY REZONED AND THE CURRENT ZONING OF AGRICULTURAL (A) OF THE DESCRIBED AREA IS REZONED TO R-1.

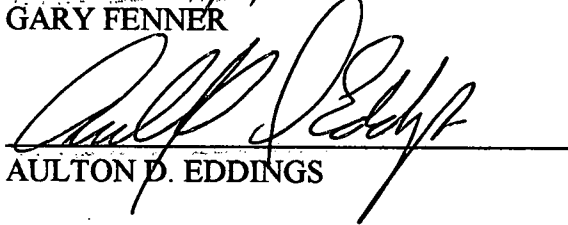
SO ORDAINED this 9th day of February, 1998.


  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

  
BILL VOYLES

  
AULTON D. EDDINGS

ATTEST:   
LINDA SCHAFER  
CLERK-TREASURER

**LAND DESCRIPTION  
SILVER CREEK TOWNSHIP  
CLARK COUNTY, INDIANA  
PART OF SURVEY #89 OF ILLINOIS GRANT**

Commencing at a stone at the South corner of said Survey 88, thence North 53-49 East with the original line dividing Survey 87 and 88, 1821.3 feet to a point in the center line of Highway 31, thence North 08-45 West with said center line 1274.7 feet to a point in said center line, thence North 08-49 West with said center line 1438.00 feet to a point in said center line said point being South 08-49 East 270.4 feet from the beginning point of a 5 degree curve, thence South 53-54 West 188.4 feet to an iron pipe, this being the point of beginning, thence North 38-04-37 West 818.72 feet, thence North 54-42-29 East 142.38 feet, thence North 36-15-40 West 786.55 feet, thence North 55-21-18 East 170.81 feet, thence along a curve concave Southerly whose radius is 30.00 feet and whose long chord bears South 80-27-11 East having a length of 41.82 feet a distance of 48.28 feet to a point in the right of way of Highway 31, thence with the right of way of said highway North 38-15-40 West 487.75 feet, thence leaving said right of way South 57-17-05 West 285.08 feet, thence South 70-31-02 West 332.32 feet, thence South 61-31-58 West 362.85 feet, thence South 36-02-08 East 1589.27 feet, thence South 36-03-28 East 608.97 feet, thence North 54-02-38 East 625.63 feet, to the point of beginning, containing 36.445 Acres, more or less. And being part of that property recorded in Drawer 26, Instrument 1587.

*Exhibit A*

ORDINANCE NO. 98-689

An Ordinance of the Town of Sellersburg authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said Town, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the Town of Sellersburg (the "Town") now owns and operates an unencumbered municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized (the "Act"), furnishing the public water supply to said Town and its inhabitants; and

WHEREAS, the Town Council of the Town now finds that certain improvements and extensions to said works are necessary; and that plans, specifications, and estimates have been prepared and filed by the engineers employed by the Town for the construction of said improvements and extensions, as more fully described on Exhibit A attached hereto (the "Project"), which plans and specifications have been or will be approved by the Town Council and by all governmental authorities having jurisdiction; and

WHEREAS, the Town has obtained engineers' estimates of the costs for the construction of said Project and will advertise for and receive bids for the Project, which bids will be subject to the Town's obtaining funds to pay for said Project; that on the basis of said estimates, the cost of the Project, including incidental expenses, is in an amount not to exceed \$1,325,000; and

WHEREAS, the Town Council expects that the costs of the Project will be financed through the sale of waterworks revenue bonds in an amount not to exceed One Million Three Hundred



Twenty-five Thousand Dollars (\$1,325,000) and, if necessary, bond anticipation notes (the "BANs");  
and

WHEREAS, the Town Council finds that there are certain outstanding bonds of the waterworks designated "Waterworks Refunding Revenue Bonds of 1993," dated July 1, 1993 (the "1993 Bonds"), now outstanding in the principal amount of \$2,715,000 and maturing annually over a period ending December 1, 2010, which 1993 Bonds constitute a first charge against the hereinafter defined Net Revenues; and

WHEREAS, the ordinance authorizing the issuance of the now outstanding 1993 Bonds permits the issuance of additional bonds ranking on a parity with said 1993 Bonds provided certain conditions can be met, and the Town finds that the finances of said waterworks will enable the Town to meet the conditions for the issuance of additional parity bonds and that accordingly, the revenue bonds authorized herein shall be on a parity with the 1993 Bonds; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the waterworks on a parity with the 1993 Bonds, and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the Town desires to authorize the issuance of BANs hereunder, if necessary, payable solely from the proceeds of waterworks revenue bonds issued to finance the aforementioned cost of the Project and to authorize the refunding of said BANs, if issued; and

WHEREAS, all conditions precedent to the adoption of an ordinance authorizing the issuance of said bonds and BANs have been complied with in accordance with the provisions of the Act; now therefore,

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BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SELLERSBURG,  
INDIANA THAT:

Sec. 1. Issuance of Bonds and BANs.

(a) The Town, being the owner of and engaged in operating a municipal waterworks furnishing the public water supply to said Town and its inhabitants, now proceed with the Project, the cost of which shall not exceed \$1,325,000, plus investment earnings on the BAN and bond proceeds, without further authorization from the Town Council, and the financing thereof by the issuance of revenue bonds pursuant to and in the manner prescribed by the Act, which revenue bonds shall be payable solely out of the Net Revenues of said waterworks (defined as gross revenues of the waterworks of the Town remaining after the payment of the reasonable expenses of operation, repair and maintenance) of the waterworks, on a parity with the 1993 Bonds. The terms "waterworks," "waterworks system," "works," "system," and words of like import where used in this ordinance shall be construed to mean and include the existing waterworks system and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired.

(b) That the Project shall be constructed and installed in accordance with the plans and specifications heretofore prepared by the engineers employed for the Project, which plans and specifications are hereby approved and which plans are by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein and two copies of which are now on file in the office of the Clerk-Treasurer and are open for public inspection.

(c) The Town shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply on the cost of said Project. The Town shall issue its BANs, in an amount not to

exceed One Million Three Hundred Twenty-five Thousand Dollars (\$1,325,000) to be designated "Waterworks Bond Anticipation Notes." Said BANs shall be sold at not less than 99.5% of their par value, shall be numbered consecutively from 1 upward, shall be in multiples of \$1,000 as designated in the Purchase Agreement therefor, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6% per annum (the exact rate or rates to be determined through negotiation) payable at maturity or upon redemption. Principal on the BANs will be payable no later than two (2) years from their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6% per annum (the exact rate or rates to be negotiated). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The revenue bonds will be payable solely out of and constitute a first charge, on a parity with the 1993 Bonds, against the Net Revenues of the waterworks of the Town.

(d) The Town shall issue its bonds, designated "Waterworks Revenue Bonds of 1998," in a principal amount not to exceed One Million Three Hundred Twenty-five Thousand Dollars (\$1,325,000) for the purpose of procuring funds to apply on the costs of said Project, issuance costs, and refunding the BANs, if issued.

Said bonds shall be sold at a price not less than 98% of the par value thereof, shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof, numbered consecutively from 1 upward, dated as of the first day of the month in which they are sold, and shall

bear interest at a rate or rates not to exceed seven percent (7%) per annum (the exact rate or rates to be determined by bidding) and shall be payable semiannually on June 1<sup>st</sup> and December 1<sup>st</sup> of each year, beginning on the first June 1<sup>st</sup> or December 1<sup>st</sup> following delivery of the bonds, as designated by the Clerk-Treasurer with the advice of the Town's financial advisor, and shall mature annually, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on December 1<sup>st</sup> of each year, over a period ending no later than December 1, 2018 and in such amounts as will achieve as level annual debt service as possible with \$5,000 denominations and taking into account the annual debt service on the 1993 Bonds.

All or a portion of the bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities of December 1 in the years determined by the successful bidder, but no later than the final serial maturity date for the bonds, in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates established in accordance with the above paragraph.

Sec. 2. Redemption. (a) The BANs are prepayable by the Town, in whole or in part, at any time upon seven days' notice to the owner of the BANs without any premium. The bonds are redeemable at the option of the Town, but no earlier than December 1, 2006, or on any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity determined by the Town and by lot within a maturity, at face value together with a premium no greater than 2%, plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be determined by the Clerk-Treasurer with the advice of the Town's financial advisor.

(b) If any bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the Town, any bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

(c) If less than an entire maturity is called for redemption at one time, the bonds to be redeemed shall be selected by lot within a maturity by the Registrar. Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional and mandatory redemption. If some bonds are to be redeemed by optional and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.

(d) In either case, notice of such redemption shall be mailed to the registered owner not less than thirty (30) days prior to the date fixed for redemption at the address of the registered owner as shown on the registration record of the Town as of the date which is forty-five (45) days prior to

said redemption date, unless such redemption notice is waived by the owner of the bond or bonds redeemed. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the Town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Sec. 3. Registrar and Paying Agent; Book Entry Provisions. The Clerk-Treasurer is hereby authorized to contract with a qualified institution to serve as Registrar and Paying Agent for the bonds ("Registrar" or "Paying Agent"). Said Registrar is hereby charged with the responsibility of authenticating the bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar on the date of issuance of the bonds, or at any later date until all the bonds mature or are redeemed, as will enable the institution to perform the services required of a registrar and paying agent. The Clerk-Treasurer is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Bond and Interest Account, as hereinafter defined in Section 11, to pay the principal of and interest on the bonds and fiscal agency charges.

As to the BANs, the Clerk-Treasurer will be designated the Registrar and Paying Agent and will be charged with the performance of all of the duties and responsibilities of Registrar and Paying Agent.

The principal of the bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the bonds and all payments of interest and principal on the BANs shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof,

as of the fifteenth day of the month preceding such interest payment date (the "Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the bonds and BANs shall be made in any lawful money of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

Each bond shall be transferable or exchangeable only upon the books of the Town kept for that purpose at the principal office of the Registrar by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the Town except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The Town, Registrar and Paying Agent for the bonds may treat and consider the person in whose name such

bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

Interest on such bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the bonds unless the bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the bonds are authenticated on or before the Record Date preceding the first interest payment date in which case they shall bear interest from the original date of the bonds until the principal shall be fully paid.

The Town has determined that it may be beneficial to the Town to have the bonds held by a central depository system pursuant to an agreement between the Town and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The bonds may be initially issued in the form of a separate single authenticated fully registered bond for the aggregate principal amount of each separate maturity of the bonds. In such case, upon initial issuance, the ownership of such bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the Town and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the



Depository Trust Company, of any notice with respect to the bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated bond evidencing an obligation of the Town to make payments of the principal of and premium, if any, and interest on the bonds pursuant to this ordinance. The Town and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such bonds; (iii) registering transfers with respect to such bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the Town's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the Town of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company,

all payments with respect to the principal of and premium, if any, and interest on such bonds and all notices with respect to such bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the Town to the Depository Trust Company.

Upon receipt by the Town of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the bonds shall no longer be restricted to being registered in the register of the Town kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the bonds shall designate, in accordance with the provisions of this ordinance.

If the Town determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered bonds, the Town may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the Town and the Registrar to do so, the Registrar and the Town will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the bonds.

If the bonds shall no longer be restricted to being registered in the name of a Depository Trust Company, the Registrar shall cause said bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such bonds printed until it shall have received from the Town indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the Town or the Registrar with respect to any consent or other action to be taken by bondholders, the Town or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as said bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the Town and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the Town and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the

bonds, together with the dollar amount of each Beneficial Owner's interest in the bonds and the current addresses of such Beneficial Owners.

Sec. 4. Execution. Each of said bonds and BANs shall be executed in the name of the Town by the manual or facsimile signature of the President of the Town Council, attested by the manual or facsimile signature of its Clerk-Treasurer and the seal of the Town shall be affixed, imprinted or impressed to or on each of said bonds and BANs manually, by facsimile or any other means; and said officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on said bonds and BANs. In case any officer whose signature or facsimile signature appears on the bonds or BANs shall cease to be such officer before the delivery of the bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The bonds shall also be authenticated by the manual signature of an authorized representative of the Registrar and no bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Said bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

Sec. 5. Form of Bonds. The form and tenor of said bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA

No. \_\_\_\_\_

STATE OF INDIANA

COUNTY OF CLARK

Original Date    Maturity Date    Authentication Date    Interest Rate    CUSIP

TOWN OF SELLERSBURG  
WATERWORKS REVENUE BOND OF 1998

REGISTERED OWNER:

PRINCIPAL SUM:

The Town of Sellersburg ("Town"), in Clark County, State of Indiana, for value received, hereby promises to pay to the Registered Owner named above ("Registered Owner") or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above ("Principal Sum") on the Maturity Date set forth above (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Principal Sum is paid at the Interest Rate per annum specified above, from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before \_\_\_\_\_ 15, 199\_\_, in which case it shall bear interest from the Original Date, which interest is payable semiannually on June 1<sup>st</sup> and December 1<sup>st</sup>, beginning \_\_\_\_\_ 1, 199\_\_.

The principal of this bond is payable at the principal office of \_\_\_\_\_ ("Registrar" or "Paying Agent"), in the \_\_\_\_\_ of \_\_\_\_\_, Indiana. All payments of interest on this bond shall be paid by check mailed one business day prior to the interest payment date to the Registered Owner hereof, as of the fifteenth day of the month preceding an interest payment date, at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the bond shall be made in any lawful

money of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

The Town has designated the bonds as qualified tax-exempt obligations to qualify the bonds for the \$10,000,000 exception from the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986 relating to the disallowance of the deduction for interest expense allocable to tax-exempt obligations.

THE TOWN SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL REVENUE FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE TOWN WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

The terms and provisions of this bond are continued on the reverse side hereof and such terms and provisions shall for all purposes have the same effect as though fully set forth at this place.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the Town of Sellersburg, in Clark County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of the President of the Town Council and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

TOWN OF SELLERSBURG, INDIANA

[SEAL]

By: \_\_\_\_\_  
President, Town Council

Attest:

\_\_\_\_\_  
Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

\_\_\_\_\_, as Registrar

By: \_\_\_\_\_  
Authorized Representative

(To be printed on Reverse Side)

This bond is one of an authorized issue of bonds of the Town, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity in the total amount of \$ \_\_\_\_\_, numbered consecutively from 1 up; issued for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipally owned waterworks system of the Town [, refunding notes issued in anticipation of bonds] and to pay issuance expenses. This bond is issued pursuant to an ordinance adopted by the Town Council of said Town on the \_\_\_\_ day of \_\_\_\_\_, 1998, entitled "An Ordinance of the Town of Sellersburg authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said Town, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" (the "Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue (the "Act"), the proceeds of which bonds are to be applied solely to the construction of said additions, extensions and improvements [, refunding said interim notes issued in anticipation of bonds,] and the incidental expenses incurred in connection therewith.

Pursuant to the provisions of said Act and said Ordinance, the principal of and interest on this bond and all other bonds of said issue and any bonds hereafter issued on a parity herewith, are payable solely from the Waterworks Sinking Fund continued by the Ordinance to be provided from the Net Revenues (defined as gross revenues of the waterworks of the Town remaining after payment of the reasonable expenses of operation, repair and maintenance) of the waterworks. This bond and the issue of which it is a part constitute a first charge upon said Net Revenues, on a parity with the 1993 Bonds (as defined in the Ordinance).

The Town of Sellersburg irrevocably pledges the entire Net Revenues of said waterworks to the prompt payment of the principal of and interest on this bond, and any bonds ranking on a parity

therewith, including the 1993 Bonds, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works, and for the payment of the sums required to be paid into its Waterworks Sinking Fund under the provisions of said Ordinance and said Act. In the event the Town or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for under Indiana law.

The Town further covenants that it will set aside and pay into its Waterworks Sinking Fund, a sufficient amount of the Net Revenues of said works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of said waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of said waterworks, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon the Net Revenues of said waterworks, on a parity with the aforementioned 1993 Bonds.

This bond is transferable or exchangeable only upon the books of the Town kept for that purpose at the office of the Registrar, by the Registered Owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner, or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the Registered Owner, as the case may be, in exchange therefor. This bond may be transferred or exchanged without cost to the Registered Owner except for any tax or governmental charge required with respect to the transfer. The Town, the Registrar and any paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

[The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the Town and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

The bonds of this issue maturing on or after December 1, \_\_\_\_\_ are redeemable at the option of the Town on \_\_\_\_\_ 1, \_\_\_\_\_, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity determined by the Town and by lot within a maturity, at face value together with the following premiums:

\_\_\_\_\_% if redeemed on \_\_\_\_\_ 1, \_\_\_\_\_,  
or thereafter on or before \_\_\_\_\_, \_\_\_\_\_;



\_\_\_\_% if redeemed on \_\_\_\_\_, \_\_\_\_  
or thereafter on or before \_\_\_\_\_, \_\_\_\_;  
0% if redeemed on \_\_\_\_\_, \_\_\_\_  
or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption.

[The bonds maturing on December 1, \_\_\_\_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on December 1 in the years and amounts set forth below:

<u>Year</u>	<u>Amount</u>
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\*

\* Final Maturity]

If less than an entire maturity is called for redemption at one time, the bonds to be redeemed shall be selected by lot within a maturity by the Registrar. Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. [If some bonds are to be redeemed by optional and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

In either case, notice of such redemption shall be mailed to the address of the registered owner as shown on the registration record of the Town, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the Town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with its depository bank an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment, and the Town shall have no further obligation or liability in respect thereto.

THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance. The Ordinance

may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Town Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

### ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_  
\_\_\_\_\_ the within bond and all rights thereunder, and hereby irrevocably  
constitutes and appoints \_\_\_\_\_, attorney, to transfer the within bond in the books  
kept for the registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Sec. 6. Authorization for Preparation and Sale of the BANs and the Bonds. The Clerk-Treasurer is hereby authorized and directed to have said bonds and BANs prepared, and the President of the Town Council and Clerk-Treasurer are hereby authorized and directed to execute and attest said bonds and BANs in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver said bonds and BANs to the purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the Clerk-

Treasurer shall collect the full amount which the purchaser has agreed to pay therefor, which shall not be less than 99.5% of the par value of said BANs or not less than 98% of the par value of said bonds, as the case may be, plus accrued interest to the date of delivery. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the Town, payable out of the Net Revenues of the waterworks to be set aside into the Waterworks Sinking Fund, on a parity with the 1993 Bonds, as herein provided. The proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of the Project, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the bonds and BANs. The proper officers of the Town are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance. Distribution of an Official Statement (preliminary and final) is hereby authorized and approved and the President of the Town Council or Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the Town in a form consistent with this ordinance. The President or Clerk-Treasurer are hereby authorized to designate the Official Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

Sec. 7. Sale of Bonds; Award of Bonds. Prior to the sale of said bonds, the Clerk-Treasurer shall cause to be published either (i) a notice of bond sale in the *Jeffersonville Evening News*, the only newspaper published in Clark County, Indiana, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the *Jeffersonville Evening News* and the *Court & Commercial Record*, all in accordance with IC 5-1-11 and IC 5-3-1. The notice shall also be posted at the Town Hall and post office (or bank if there is

no post office) in accordance with IC 5-3-1. A notice or summary notice of sale may also be published in the *Court & Commercial Record* or in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the bonds, the maximum rates of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the Town shall deem advisable, and any summary notice may contain any information deemed so advisable. Said notice shall provide, among other things, that bidders for said bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-hundredth ( $1/100$ ) or one-twentieth ( $1/20$ ) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. The notice may provide, among other things, that each bid shall be accompanied by a certified or cashier's check or a financial surety bond to guarantee performance on the part of the bidder. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the Town prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bonds. If the bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit to the Town a certified or cashier's check (or wire transfer such amount as instructed by the Town) not later than 3:30 p.m. (Sellersburg Time) on the next business day following the award. In the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the Town and shall be considered as its liquidated damages on account of such default. No conditional bids or

bids for less than 98% of the par value of the bonds will be considered. The opinion of Ice Miller Donadio & Ryan, bond counsel of Indianapolis, Indiana, approving the legality of said bonds will be furnished to the purchaser at the expense of the Town.

The bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted its bid in accordance with the terms of this ordinance and the notice. The best bidder will be the one who offers the lowest net interest cost to the Town to be determined by computing the total interest on all of the bonds to their maturities, adding thereto the discount bid, if any, and deducting therefrom the premium bid, if any. The right to reject any and all bids is hereby reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the Town than the best bid received at the time of the advertised sale will be considered.

Sec. 8. Financial Records and Accounts, Continuing Disclosure. The Town shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of said waterworks and all disbursements made therefrom and all transactions relating to said waterworks. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. The substantially final form of Continuing Disclosure Undertaking Agreement (the "Agreement") attached hereto is hereby approved by the Town Council, and the President and Clerk-Treasurer are hereby authorized and directed to complete, execute and attest the same on behalf of the Town. Notwithstanding any other provisions of this ordinance, failure of the Town to comply with the Agreement shall not be considered a default under the bonds or this ordinance.

Sec. 9. Construction Account. Any accrued interest and any premium received at the time of the delivery of the bonds shall be deposited in the Waterworks Sinking Fund hereinafter defined. The remaining proceeds from the sale of the bonds, to the extent not used to refund BANs, and BAN proceeds shall upon receipt be deposited in a bank or banks which are legally designated and qualified depositories for the funds of the Town, in a special account or accounts to be designated as "Town of Sellersburg, Waterworks Construction Account." The funds in each of such special accounts shall be deposited, secured, and held, or invested in accordance with the laws of the State of Indiana relating to the depositing, securing and holding, or investing of public funds. The funds in such special account or accounts and any income derived from the investment hereof shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, and the incidental expenses incurred in connection therewith and with the issuance of bonds and BANs. Any balance or balances remaining unexpended in such special account or accounts after the completion of the Project, which are not required to meet unpaid obligations incurred in connection with the construction of the Project, shall either (1) be deposited in the Waterworks Sinking Fund and used solely for the purposes of said Fund or (2) be used for the same purpose or type of project for which the bonds were issued, all in accordance with IC 5-1-13, as amended.

Sec. 10. Revenue Fund and Operation and Maintenance Fund. All revenues derived from the operation of the waterworks and from the collection of water rates and charges shall be deposited in the Waterworks Revenue Fund ("Revenue Fund") hereby continued. Said Revenue Fund shall be maintained separate and apart from all other accounts of the Town. Out of said Revenue Fund the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the

requirements of the Sinking Fund shall be met, and the costs of replacements, extensions, additions and improvements to the works shall be paid.

There is hereby continued the fund known as the "Operation and Maintenance Fund" ("O&M Fund"). On the last day of each calendar month, a sufficient amount of moneys shall be transferred from the Revenue Fund to the O&M Fund so that the balance maintained in the O&M Fund is sufficient to pay the expenses of operation, repair and maintenance of the works for the then next succeeding two calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis. Any monies in said Fund may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the waterworks.

Sec. 11. Waterworks Sinking Fund. There is hereby continued the special fund designated "Waterworks Sinking Fund" ("Sinking Fund") for the payment of the principal of and interest on all outstanding waterworks revenue bonds and the payment of any fiscal agency charges in connection with the payment of bonds. There shall be set aside and deposited in said Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of said waterworks to meet the requirements of the Bond and Interest Account and Reserve Account hereby continued in said Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Reserve Account hereinafter described equals the amount needed to redeem all of the then outstanding bonds of the waterworks to their final maturity and provide for payment of all fiscal agency charges.

(a) Bond and Interest Account. There is hereby continued, within said Sinking Fund, the Bond and Interest Account. There shall be credited on the last day of each calendar month to the Bond and Interest Account an amount of the Net Revenues equal to at least the sum of one-sixth (1/6) of the interest on and at least one-twelfth (1/12) of the principal payable on all then outstanding bonds payable on the then next succeeding principal and interest payment dates until the amount of interest and principal payable on the then next succeeding interest and principal payment dates shall have been so credited. There shall similarly be credited to the Account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable. The Town shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Reserve Account. There is hereby continued, within the Sinking Fund, the Reserve Account. Upon the issuance of the bonds, the Town may deposit on the date of delivery of the bonds, into the Reserve Account, funds on hand, bond proceeds or any combination thereof. The balance in the Reserve Account shall equal but not exceed the least of (i) the maximum annual debt service on the 1993 Bonds and the bonds issued hereunder, (ii) 125% of average annual debt service on the 1993 Bonds and the bonds issued hereunder, or (iii) 10% of the proceeds of the 1993 Bonds and the bonds issued hereunder plus a minor portion thereof as defined in the Internal Revenue Code of 1986 (the "Reserve Requirement"). If no initial deposit is made or the initial deposit does not cause the balance in the Reserve Account to equal the Reserve Requirement, monthly deposits of Net



Revenues shall be made, equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date the bonds are issued.

The Reserve Account shall constitute the margin for safety and a protection against default in the payment of principal of and interest on said bonds and the 1993 Bonds, and the moneys in the Reserve Account shall be used only to pay current principal and interest on said bonds and the 1993 Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiencies in credits to the Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay interest and principal on the bonds or 1993 Bonds, respectively, then such depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be considered as revenues of the waterworks. The Town Council has determined, based upon the advice of its financial advisor, that the Reserve Account is reasonably required and that the Reserve Requirement is no larger than necessary to market the bonds. The Town Council further finds that the Reserve Account is directly related to the Project since the bonds could not be issued to fund the Project without the Reserve Account.

Sec. 12. Waterworks Improvement Fund. There is hereby continued the special fund designated the Waterworks Improvement Fund ("Improvement Fund"). In the event all required payments into the O&M Fund and the Sinking Fund have been met to date, then any excess Net Revenues may be transferred to the Improvement Fund and used for improvements, replacements, additions and extensions to the works.

All or any portion of the funds accumulated and reserved in the Improvement Fund shall be transferred to the Sinking Fund, if necessary, to prevent a default in the payment of principal of or interest on the bonds or to eliminate any deficiencies in credits to or minimum balance in the Reserve Account. Moneys in the Improvement Fund also may be transferred to the O&M Fund to meet unforeseen contingencies in the operation and maintenance of the waterworks.

Sec. 13. Investment of Funds. The Sinking Fund shall consist of at least one separate account of the Town. The O&M Fund and the Improvement Fund may be maintained in one account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the Town and apart from the Sinking Fund account or accounts. All moneys deposited in said accounts shall be deposited, held, secured and invested as public funds in accordance with the public depository laws and investment laws of the State of Indiana as now in effect or as hereafter amended, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Sec. 14. Defeasance of the Bonds. If, when the bonds issued hereunder or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the bonds or any portion thereof then outstanding shall be paid; or (i) sufficient moneys or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the

redemption, then and in that case the bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the Town's waterworks.

Sec. 15. Rate Covenant. The Town shall by ordinance establish, maintain and collect just and equitable rates and charges for facilities and services afforded and rendered by said waterworks, which shall, to the extent permitted by law, produce sufficient revenues at all times to pay all the legal and other necessary expenses incident to the operation of such waterworks, to include maintenance costs, operating charges, upkeep, repairs, depreciation, interest charges, to provide for payment of the sums to provide a sinking fund for the liquidation of bonds or other obligations and to provide a debt service reserve for bonds or other obligations, including leases, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such waterworks, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such waterworks property in a sound physical and financial condition to render adequate and efficient service. So long as any of the bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The Town shall pay like charges for any and all services rendered by said waterworks to the Town, and all such payments shall be deemed to be revenues of the waterworks. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance and said requirements of the Sinking Fund.

Sec. 16. Additional Bond Provisions. The Town reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The Town also reserves the right to authorize and issue additional bonds payable out of the Net Revenues of its waterworks ranking on a parity with the bonds authorized by this ordinance for the purpose of financing the cost of future additions, extensions, and improvements to the waterworks, or to refund obligations, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the revenues of the waterworks shall have been paid to date in accordance with the terms thereof, and all required payments into the Sinking Fund have been made in accordance with the provisions of this ordinance.

(b) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this ordinance shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of the parity bonds the water rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the waterworks, including the additional parity bonds proposed to be issued. For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant employed by the Town for that purpose.

(c) The interest on the additional parity bonds shall be payable semiannually on June 1<sup>st</sup> and December 1<sup>st</sup> and the principal on, or mandatory sinking fund redemption dates for, the additional parity bonds shall be payable annually on December 1<sup>st</sup>.

Sec. 17. Further Covenants of the Town; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the Town in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the Town. All estimates for work done or material furnished shall first be checked by the engineer and approved by the Town.

(c) The Town shall at all times maintain its waterworks in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the bonds or BANs herein authorized are outstanding, the Town shall maintain insurance on the insurable parts of said waterworks of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws

of the State of Indiana. As an alternative to maintaining such insurance, the Town may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities. All insurance or self-insurance proceeds shall be used in replacing the property destroyed or damaged or if not used for that purpose shall be deposited in the Sinking Fund.

(e) So long as any of the bonds or BANs herein authorized are outstanding, the Town shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility.

(f) Except as hereinbefore provided in Section 16, so long as the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said waterworks shall be authorized, executed or issued by the Town except such as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized have been redeemed, retired or defeased pursuant to Section 14 hereof coincidentally with the delivery of such additional bonds or other obligations.

(g) The provisions of this ordinance shall constitute a contract by and between the Town and the owners of the bonds and BANs herein authorized, and after the issuance of said bonds or BANs, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said bonds or BANs, nor shall the Town Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as said bonds, BANs or the interest thereon remain unpaid. Excluding the changes set forth in Section 19(a)-(f),

the ordinance may be amended, however, without the consent of bond or BAN owners, if the Town Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the bonds or BANS.

(h) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of said bonds shall have all the rights, remedies and privileges under Indiana law in the event the Town shall fail or refuse to fix and collect sufficient rates and charges for said purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there shall be a default in the payment of the interest on or principal of the bonds.

Sec. 18. Tax Covenants. In order to preserve the exclusion of interest on the bonds and BANS from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the BANs or bonds, as the case may be (the "Code") and as an inducement to purchasers of the bonds and BANs, the Town represents, covenants and agrees that:

(a) The waterworks is intended to be and will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the Town or another state or local governmental

unit will use more than 10% of the proceeds of the bonds or BANs or property financed by the bond or BAN proceeds other than as a member of the general public. No person or entity other than the Town or another state or local governmental unit will own property financed by bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, management, service or incentive payment contract, an arrangement including take-or-pay or other type of output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the bonds or BANs, as the case may be. If the Town enters into a management contract for all or a portion of the waterworks, the terms of the contract will comply with the Regulations and IRS Revenue Procedure 97-13, as amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations unless such use in the aggregate will not relate to more than 10% of the proceeds of the BANs or bonds, as the case may be.

(b) No more than 10% of the principal of or interest on the bonds or BANs is (under the terms of the bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for private business use or payments in respect of such property, or to be derived from payments (whether or not to the Town) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the bond or BAN proceeds.



(d) The Town reasonably expects, as of the date hereof, that the bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The Town will not take any action nor fail to take any action with respect to the bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the bonds or BANs pursuant to Section 103 of the Code, nor will the Town act in any other manner which would adversely affect such exclusion, and it will not make any investment or do any other act or thing during the period that the bonds or BANs are outstanding which would cause the bonds or BANs to be private activity bonds under the meaning of Section 141 of the Code.

(g) It shall be not an event of default under this ordinance if the interest on any bonds or BANs is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the bonds or BANs, as the case may be.

(h) The Town represents that:

(1) The Town is a governmental unit with general taxing powers, which powers include the power to impose taxes of general applicability that, when collected, may be used for the general purposes of the Town;

(2) The bonds and BANs are not private activity bonds as defined in Section 141 of the Code;

(3) At least 95% of the net proceeds of the bonds and BANs will be used for local governmental activities of the Town or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Town;

(4) The aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Town and all units subordinate to the Town, including on-behalf-of issuers and subordinate entities as those terms are defined in Regulations Section 1.148-8(c)(2), is not reasonably expected to exceed \$5,000,000 in calendar year 1998; and

(5) The Town has not been formed or availed of to otherwise avoid the purposes of the \$5,000,000 size limitation.

Therefore, the Town meets the requirements of Section 148(f)(4)(D) of the Code and will not have to rebate any arbitrage profits to the United States.

(i) The Town represents that:

(1) The bonds and BANs are not private activity bonds as defined in Section 141 of the Code;

(2) The Town hereby designates the bonds and BANs as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;

(3) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the Town and all entities subordinate to the Town during 1998 does not exceed \$10,000,000; and

(4) The Town has not and will not designate more than \$10,000,000 of qualified tax-exempt obligations during 1998.

Therefore, the bonds and BANs qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

(j) These covenants are based solely on current law in effect and in existence on the date of delivery of the bonds or BANS, as the case may be.

Sec. 19. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Town Council of the Town of Sellersburg of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the Town of Sellersburg for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

- (a) An extension of the maturity of the principal of, mandatory sinking fund redemption date, if any, or interest on any bond issued pursuant to this ordinance; or
- (b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or
- (c) The creation of a lien upon or a pledge of the revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or
- (d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued pursuant to the provisions of this ordinance; or
- (e) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance; or
- (f) A reduction of the Reserve Requirement.

In the event that the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the Town, no owner of any bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Town Council of the Town from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the Town and all owners of bonds

then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the Town and of the owners of the bonds authorized by this ordinance, and the terms and provisions of the bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the Town and the consent of the owners of all the bonds then outstanding.

Sec. 20. (a) The Town, having satisfied all the statutory requirements for the issuance of its bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank or any other purchaser, pursuant to a Bond Anticipation Note Purchase Agreement (the "BAN Purchase Agreement") to be entered into between the Town and the purchaser of the BAN or BANs. The Town Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing bonds to provide interim construction financing for the Project until permanent financing becomes available. It shall not be necessary for the Town to repeat the procedures for the issuance of its bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the bonds and the use of the proceeds to repay the BAN or BANs.

(b) The President of the Town Council and the Clerk-Treasurer are hereby authorized to execute a BAN Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The President of the Town Council and the Clerk-Treasurer may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Sec. 21. Compliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the BANs and bonds from gross income under federal tax law ("Tax Exemption") need not be complied with if the Town receives an opinion of bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Sec. 22. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be deemed to amend or repeal the ordinance authorizing the 1993 Bonds or adversely affect the 1993 Bonds.

Sec. 23. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Sec. 24. Effective Date. This ordinance shall be in full force and effect from and after its passage.

Adopted this 13<sup>th</sup> day of April, 1998.

TOWN COUNCIL  
TOWN OF SELLERSBURG

Ray Eddy  
William J. King  
David L. Broady  
Cary E. Fenn  
\_\_\_\_\_

Attest:

Kinda H. Schaefer  
Clerk-Treasurer

## **EXHIBIT A**

### **Description of Project**

## **1998 SELLERSBURG WATER SYSTEM IMPROVEMENTS**

### **SELLERSBURG, INDIANA**

This improvement project involves two (2) sections: the Capital Improvement portion and the Operational and Maintenance Improvements. The Capital Improvements proposed are installation of a Radio Telemetry System, dredging and reconfiguration of the Holding Ponds, a water main installation from Ohio Avenue to Hill-N-Dale, the installation of Subtrol Motor Controls on pumps, the installation of Stand-By-Electric Generators at the Pump House and Treatment Plant, the replacement of water mains, the refurbishing of the Holman's Lane water tank, the installation of chemical handling equipment, and the installation of a water main in the White City-Henryville Loop area. The Operational and Maintenance items are rebuilding the well pumps, replacing filter media on sand filters, updating the booster pumps, repairing and painting the Well Building, rebuilding the High Service Pumps, cleaning and painting the Sellers Avenue water tank, rebuilding the Aerators, and cleaning, repairing and repainting the Water Treatment Plant.



**EXCERPTS FROM THE MINUTES OF A  
REGULAR MEETING OF THE TOWN COUNCIL OF  
TOWN OF SELLERSBURG**

The Town Council of the Town of Sellersburg met in the Sellersburg Town Hall, on the 13th day of April, 1998, at the hour of 6:30 p.m., local prevailing time, in the regular meeting pursuant to call in accordance with the rule of the Council.

The meeting was called to order by Council President, Aulton D. Eddings, who presided.

On call of the roll the members of the Council were shown to be present or absent as follows:

Present:

Ken Alexander  
Gary Fenner  
Aulton D. Eddings  
William Voyles  
David Broady

Absent:

Town Attorney, William P. McCall III, was also present, as was the Clerk/Treasurer, Linda Schafer.

William McCall stated that Ice Miller Donadio & Ryan, attorneys of Indianapolis, Indiana, employed by the Town as bond counsel, have prepared a form of a bond ordinance for consideration by the Council in the matter of the financing of certain additions, extensions and improvements to the municipals waterworks of the Town.

William McCall then stated that it would now be in order for the Council to consider said ordinance.

President Eddings then introduced the bond ordinance, entitled "An Ordinance of the Town of Sellersburg authorizing the issuance of waterworks revenue bonds for the purpose of providing fund to pay the costs of additions, extensions and improvements to the municipal waterworks of said Town, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith," and moved that said ordinance be numbered and considered for approval on a first reading, whereupon said ordinance was given the following ordinance number, 98-689, and was read by title at this time.

David Broady seconded said motion to consider Ordinance No. 98-689 on a first reading, and on call of the roll resulted in all five members of the Council voting Aye on said motion.

The ordinance having been numbered 98-689, read by title and having been approved for consideration by the Council on a first reading, Aulton D. Eddings now makes the motion to consider Ordinance No. 98-689 for passage on a first reading. The motion was seconded by David Broady, and a call of the roll was carried by the following vote:

Ayes:

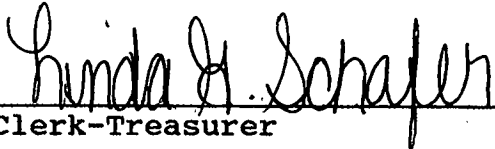
Ken Alexander  
Gary Fenner  
Aulton D. Eddings  
William Voyles  
David Broady

Nayes:

The Presiding Officer announced that there being at least two-thirds of the duly elected member of the Council present at the meeting and the motion for adoption having been carried by a two-thirds vote of all such elected members, Ordinance No. 689 had been duly passed and adopted.

\*\*\*\*\* (Other Business) \*\*\*\*\*

There being no further business presented to the meeting, on motion duly made, seconded and unanimously carried, the meeting thereupon adjourned.

  
Clerk-Treasurer

Approved:

  
Presiding Officer

## CONTINUING DISCLOSURE UNDERTAKING AGREEMENT

This CONTINUING DISCLOSURE UNDERTAKING AGREEMENT (the "Agreement") is made as of \_\_\_\_\_, 1998 between the Town of Sellersburg, Indiana (the "Obligor") and \_\_\_\_\_ (the "Counterparty"), for the purpose of permitting \_\_\_\_\_, as underwriter (the "Underwriter") of the Bonds to purchase the Bonds in compliance with the Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "SEC Rule") as published in the Federal Register on November 17, 1994.

Section 1. Definitions. The words and terms defined in this Agreement shall have the meanings herein specified unless the context or use clearly indicates another or different meaning or intent. Those words and terms not expressly defined herein and used herein with initial capitalization where rules of grammar do not otherwise require capitalization, shall have the meanings assigned to them in the SEC Rule.

- (1) "Bondholder" or "holder" or any similar term, when used with reference to a Bond or Bonds, means any person who shall be the registered owner of any outstanding Bond, including the holders of beneficial interests in the Bonds.
- (2) "Final Official Statement" means the Official Statement, dated as of \_\_\_\_\_, 1998, relating to the Bonds, including any document or set of documents included by specific reference to such document or documents previously provided to each NRMSIR and to the SID, or filed with the Municipal Securities Rulemaking Board ("MSRB").
- (3) "NRMSIR" means, at any point in time, a nationally recognized municipal securities information repository which is then recognized as such by the SEC, initially including but not limited to each of those entities listed on the attached Exhibit A.
- (4) "Obligated Person" means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), for which Annual Information (as defined

in Section 5 hereof) is presented in the Official Statement. All Obligated Persons with respect to the Bonds are identified in Section 4 below.

- (5) "SID" means the Indiana state information depository, if any, in existence from time to time.

Section 2. Bonds. This Agreement applies to the Waterworks Revenue Bonds of 1998 in the principal amount of \$ \_\_\_\_\_ (the "Bonds").

Section 3. Term. The term of this Agreement is from the date of delivery of the Bonds by the Obligor to the earlier of (i) the date of the last payment of principal or redemption price, if any, of, and interest to accrue on, all the Bonds, (ii) the date the Bonds are defeased under Section 14 of the Ordinance adopted by the Obligor \_\_\_\_\_, 1998 (the "Ordinance"), or (iii) the date of rescission as described in Section 12.

Section 4. Obligated Persons. (a) The Obligor hereby represents and warrants as of the date hereof that it is the only Obligated Person with respect to the Bonds. If the Obligor, at its sole discretion, determines that it is no longer an Obligated Person, this Agreement shall no longer apply to the Obligor.

(b) The Obligor hereby represents and warrants that no Obligated Person is an obligated person (within the meaning of the SEC Rule) with respect to more than \$10,000,000 in aggregate amount of outstanding municipal securities, including the Bonds and excluding municipal securities that were offered in a transaction exempt from the SEC Rule pursuant to paragraph (d)(1) of the SEC Rule.

Section 5. Provision of Annual Information. (a) The Obligor hereby undertakes to provide, upon request to any person or at least annually to the SID, the most current copy of financial information of the Obligor which is customarily prepared by or for the Obligor, as required by Indiana law in effect at the time such financial information is prepared ("Annual Information"). If provided upon request, such Annual Information will be provided within 60 days of such request; if filed with a SID, such Annual Information will be filed on or about December 1. As of the date of this Agreement, the Obligor is required by law to prepare, or cause to be prepared, the following Annual Information:

- Audit of the Obligor prepared [annually/biennially] by the Indiana State Board of Accounts
- Annual City and Town Financial Report prepared by the Obligor

However, such Annual Information described above, or any component thereof, shall not be required to be provided if (i) such Annual Information is no longer customarily prepared by or for the Obligor or (ii) such Annual Information is no longer publicly available.

Such Annual Information is prepared only periodically and will speak only to the periods covered therein. In addition, the information presented therein may differ in form and substance from the financial information presented in the Final Official Statement.

(b) Annual Information required to be provided pursuant to this Section 5 may be provided by a specific reference to such Annual Information already prepared and previously provided to each NRMSIR and the SID, or filed with the SEC; however, if such document is a final official statement, it must also be available from the MSRB.

(c) Requests for Annual Information shall be made to the Town of Sellersburg, c/o Clerk-Treasurer, Town Hall, 316 East Utica, Sellersburg, Indiana 47172-1403, Phone: (812) 246-3821.

(d) The Obligor may subsequently opt into the provisions of Section (b)(5)(i) of the Rule by amending this Agreement to comply therewith.

Section 6. Accounting Principles. The financial information will be prepared on a cash basis as prescribed by the State Board of Accounts, as in effect from time to time, as described in the auditors' report and notes accompanying the audited financial statements of the Obligor or those mandated by state law from time to time. The audited financial statements of the Obligor, as described in Section 5 hereof, will be prepared in accordance with generally accepted accounting standards and Government Auditing Standards issued by the Comptroller General of the United States.

Section 7. Material Events. The Obligor undertakes to disclose in a timely manner the occurrence of only the following events, if material (which determination of materiality shall be made by the Obligor in accordance with the standards established by federal securities laws), to each NRMSIR or to the MSRB, and to the SID, if any:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modifications to the rights of Bondholders;
- (8) Bond calls (other than scheduled mandatory sinking fund redemptions for which notice is given in accordance with the Ordinance);
- (9) defeasances;

- (10) release, substitution or sale of property securing repayment of the Bonds; and
- (11) rating changes.

The Obligor may from time to time choose to provide notice of the occurrence of any other event, in addition to those listed above, if, in the judgment of the Obligor, such other event is material with respect to the Bonds and should be disclosed, but the Obligor does not commit to provide any such notice of the occurrence of any material event except those events set forth above.

Section 8. Use of Agent. The Obligor may, at its sole discretion, utilize an agent ( the "Dissemination Agent") in connection with the dissemination of any information required to be provided by the Obligor pursuant to the terms of the SEC Rule and this Agreement. Further, the Obligor may, at its sole discretion, retain counsel or others with expertise in securities matters for the purpose of assisting the Obligor in making judgments with respect to the scope of its obligations hereunder and compliance therewith, all in order to further the purposes of this Agreement as set forth in the preamble and Section 9 hereof.

Section 9. Remedies. (a) The purpose of this Agreement is to enable the Underwriter to purchase the Bonds by providing for an undertaking by the Obligated Persons in satisfaction of the SEC Rule. This Agreement is solely for the benefit of the Bondholders and creates no new contractual or other rights for the SEC, underwriters, brokers, dealers, municipal securities dealers, potential customers, other Obligated Persons or any other third party. The sole remedy against the Obligor for any failure to carry out any provision of this Agreement shall be for specific performance of the Obligor's disclosure obligations hereunder and not for money damages of any kind or in any amount or for any other remedy. The Obligor's failure to honor its covenants hereunder shall not constitute a breach or default of the Bonds, the Ordinance or any other agreement to which the Obligor is a party.

(b) Subject to paragraph (e) of this Section 9, in the event the Obligor fails to provide any information required of it by the terms of this Agreement, any Bondholder may pursue the remedy set forth in the preceding paragraph in any court of competent jurisdiction in the State of Indiana. An affidavit to the effect that such person is a Bondholder supported by reasonable documentation of such claim shall be sufficient to evidence standing to pursue this remedy.

(c) Subject to paragraph (e) of this Section 9, any challenge to the adequacy of the information provided by the Obligor by the terms of this Agreement may be pursued only by holders of not less than 25% in principal amount of Bonds then Outstanding in any court of competent jurisdiction in the State of Indiana. An affidavit to the effect that such persons are Bondholders supported by reasonable documentation of such claim shall be sufficient to evidence standing to pursue the remedy set forth in the preceding paragraph.

(d) The Counterparty, upon satisfactory indemnification and demand by those persons it reasonably believes to be Bondholders, may also pursue the remedy set forth above in any court

of competent jurisdiction in the State of Indiana. The Counterparty shall have no obligation to pursue any remedial action in the absence of a valid demand from Bondholders and satisfactory indemnification.

(e) Prior to pursuing any remedy under this Agreement, a Bondholder shall give notice to the Obligor, via registered or certified mail, of such breach and its intent to pursue such remedy. Fifteen (15) days after the mailing of such notice, and not before, a Bondholder may pursue such remedy under this Agreement.

Section 10. Counterparty's Obligations. The Counterparty hereto shall have no obligation to take any action whatsoever with respect to information provided by the Obligor under this Agreement (or of any Obligated Persons covered hereby), except any obligations arising from the Counterparty serving as a Dissemination Agent, and no implied covenants or obligations shall be read into this Agreement against the Counterparty. Further, the Counterparty hereto shall have no responsibility to ascertain the truth, completeness or accuracy of the information provided as required hereunder by the Obligor or any Obligated Person, nor as to its sufficiency for purposes of compliance with the SEC Rule or the requirements of this Agreement.

The Counterparty may, at its sole discretion, retain counsel or others with expertise in continuing disclosure matters for the purpose of assisting the Counterparty in making judgments with respect to the scope of its obligations hereunder and compliance therewith.

Section 11. Resignation and Removal of Counterparty. The Counterparty may resign in its capacity under this Agreement at any time by giving written notice thereof to the Obligor. The Obligor may remove the Counterparty in its capacity under this Agreement at any time by giving written notice thereof to the Counterparty. Upon such resignation or removal, the Obligor shall promptly appoint a successor Counterparty.

Section 12. Modification of Agreement. The Obligor and the Counterparty may, from time to time, amend or modify this Agreement without the consent of or notice to the Bondholders if either (a)(i) such amendment or modification is made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the Obligor, or type of business conducted, (ii) this Agreement, as so amended or modified, would have complied with the requirements of the SEC Rule on the date hereof, after taking into account any amendments or interpretations of the SEC Rule, as well as any change in circumstances, and (iii) such amendment or modification does not materially impair the interests of the Bondholders, as determined either by (A) any person selected by the Obligor that is unaffiliated with the Obligor (including the Counterparty) or (B) an approving vote of the holders of the requisite percentage of outstanding Bonds as required under Section 19 of the Ordinance at the time of such amendment or modification; or (b) such amendment or modification (including an amendment or modification which rescinds this Agreement) is permitted by the SEC Rule, as then in effect.



Section 13. Interpretation Under Indiana Law. It is the intention of the parties hereto that this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and enforced in accordance with, the law of the State of Indiana.

Section 14. Severability Clause. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 15. Successors and Assigns. All covenants and agreements in this Agreement made by the Obligor and the Counterparty shall bind their successors, whether so expressed or not.

Section 16. Notices. All notices required to be given under this Agreement shall be made at the following addresses:

If to the Obligor:

Town of Sellersburg, Indiana  
c/o Clerk-Treasurer  
Town Hall, 316 East Utica  
Sellersburg, Indiana 47172-1403

If to the Counterparty:

IN WITNESS WHEREOF, the Obligor and the Counterparty have caused this Agreement to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

TOWN OF SELLERSBURG, as Obligor

\_\_\_\_\_

\_\_\_\_\_, as Counterparty

\_\_\_\_\_

EXHIBIT A

NATIONALLY RECOGNIZED MUNICIPAL  
SECURITIES INFORMATION REPOSITORIES

Bloomberg Municipal Repositories  
100 Business Park Drive  
Skillman, NJ 08558  
Phone: (609) 279-3200  
Fax: (609) 279-5962  
E-Mail: [Munis@Bloomberg.com](mailto:Munis@Bloomberg.com)

Thomson NRMSIR  
Attn: Municipal Disclosure  
395 Hudson Street, 3<sup>rd</sup> Floor  
New York, NY 10014  
Phone: (212) 807-5001  
Phone: (800) 689-8466  
Fax: (212) 989-2078  
E-Mail: [Disclosure@Muller.com](mailto:Disclosure@Muller.com)

Kenny Information Systems, Inc.  
Attn: Kenny Repository Service  
65 Broadway - 16th Floor  
New York, NY 10006  
Phone: (212) 770-4595  
Fax: (212) 797-7994

DPC Data, Inc.  
One Executive Drive  
Fort Lee, NJ 07024  
Phone: (201) 346-0701  
Fax: (201) 947-0107  
E-Mail: [nrmsir@dpcdata.com](mailto:nrmsir@dpcdata.com)

**ORDINANCE NO. 98- 690**  
**AN ORDINANCE AMENDING ORDINANCE NO. 92-519**  
**FOR REFUSE AND GARBAGE REGULATIONS WITHIN**  
**THE TOWN OF SELLERSBURG**

WHEREAS, the Town Council for the Town of Sellersburg did on February 24, 1992, pass Ordinance No. 92-519 which set forth the regulations for garbage and refuse within the Town of Sellersburg town limits; and

WHEREAS, the Town Council for the Town of Sellersburg determined that amendment to said ordinance is necessary to effectuate proper refuse and garbage collection for all residents of the Town of Sellersburg;

WHEREAS, the Town Council for the Town of Sellersburg has determined that said amendment to the ordinance is necessary for efficient and effective administration of Town Government;

WHEREAS, the Town Council for the Town of Sellersburg has considered this matter in an open meeting in which the public were invited to attend and participate;

**BE IT NOW THEREFORE ORDAINED AS FOLLOWS:**

Section 6-97 of Article 9 of the Sellersburg Town Code shall be amended as follows.

The Town of Sellersburg shall provide refuse and garbage collection to multiple housing units which have no more than eight (8) units per parcel and have single meters for each such unit.

Each unit shall be limited to only two (2) <sup>two</sup> thirty-~~two~~ gallon garbage cans.

The Town shall assess a fee of three (\$3.00) dollars per month to each dwelling unit for said service which shall be billed directly to the occupant on the monthly billing statement *for water*.

Refuse and garbage collection under this ordinance does not include yard waste collection.

All other provisions of said ordinance shall remain in full force and affect.

**ORDINANCE NO. 98- 691**

**AN ORDINANCE AMENDING ORDINANCE NO. 95-615,  
REGARDING THE INDIANA MODEL ORDINANCE FOR FLOOD HAZARD AREAS**

**WHEREAS**, the Town Council for the Town of Sellersburg, Indiana, did on the 13th day of February, 1995, adopt Ordinance No. 95-615, regarding the Indiana Model Ordinance for Flood Hazard Areas; and

**WHEREAS**, the Town Council for the Town of Sellersburg has been informed by the Indiana Department of Natural Resources that said Ordinance No. 95-615 contains various information which must be corrected; and

**WHEREAS**, the Town Council for the Town of Sellersburg, Indiana, has determined in an open meeting in which the public was allowed to participate, that Ordinance No. 95-615 should be amended to reflect the changes requested by the Indiana Department of Natural Resources.

Be it ordained by the Town Board of the Town of Sellersburg, Indiana as follows:

**SECTION 1. STATUTORY AUTHORIZATION.** The Indiana Legislature granted the power to local units of government (I.C. 36-7-4) to control land use within their jurisdictions in order to accomplish the following.

**SECTION 2. STATEMENT OF PURPOSE.** The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Sellersburg Town Board of Trustees hereby adopts the following floodplain management regulations in order to accomplish the following:

- a. To prevent unwise developments from increasing flood or drainage hazards to others;
- b. To protect new building and major improvements to buildings from flood damage;
- c. To protect human life and health from the hazards of flooding;
- d. To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- e. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

- f. To make federally subsidized flood insurance available for property in the Town of Sellersburg by fulfilling the requirements of the National Flood Insurance Program.

**SECTION 3. DEFINITIONS.** For the purpose of this ordinance, the following definitions are adopted:

- a. Building - see "structure".
- b. Development - any man-made change to improved or unimproved real estate including, but not limited to:
1. Construction, reconstruction, or placement of a building or any addition to a building;
  2. Installing a manufactured home on a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
  3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
  4. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
  5. Mining, dredging, filling, grading, excavation, or drilling operations;
  6. Construction and/or reconstruction of bridges or culverts;
  7. Storage of materials; or
  8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

- c. Existing manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is

completed before the effective date of the floodplain management regulations adopted by a community.

- d. Expansion to an existing manufactured home park or subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- e. FHBM - means Flood Hazard Boundary Map.
- f. FIRM - means Flood Insurance Rate Map.
- g. FBFM - Flood Boundary and Floodway Map.
- h. FEMA - Federal Emergency Management Agency.
- i. Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- j. Floodplain - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
- k. Flood Protection Grade or the "FPG" - means the elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).
- l. Floodway - means the channel of a river or stream and those portions of the floodplains adjoining the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- m. Floodway Fringe - means those portions of the flood hazard areas lying outside the floodway.
- n. Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.
- o. Letter of Map Revision (LOMR) - An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- p. Lowest Floor - means the lowest of the following:

1. The top of the basement floor;
  2. The top of the garage floor, if the garage is the lowest level of the building;
  3. The top of the first floor of building elevated on pilings or constructed on a crawl space with permanent openings; or
  4. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
    - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of such openings shall be no higher than one (1) foot above grade.
    - (b) Such enclosed space shall be usable for the parking of vehicles and building access.
- q. **Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- r. **New manufactured home park or subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- s. **Recreation Vehicle** - means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.
- t. **Regulatory Flood** - means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is as defined in Section 5 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood".



- u. SFHA or Special Flood Hazard Area - means those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the Flood Insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated August 1, 1980. The SFHAs of those parts of unincorporated Clark County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for Clark County by the Federal Emergency Management Agency and dated February 18, 1983.
- v. Structure - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.
- w. Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

**SECTION 4. DUTIES OF THE ADMINISTRATOR.** The Building Inspector for the Town of Sellersburg shall implement this ordinance and hereafter be referred to as the Zoning Administrator. The Zoning Administrator for the Town of Sellersburg is appointed to review all development and subdivision proposals to insure compliance with this ordinance, including but not limited to the following duties:

- a. Ensure that all development activities within the SFHAs of the jurisdiction of the Town meet the requirements of this ordinance.
- b. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- c. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 7 of this ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

- d. Maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.
- e. Maintain a record of the engineer's certificate and the "as-built" floodproofed elevation of all buildings subject to Section 8 of this ordinance.
- f. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- g. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, "as-built" elevation and floodproofing data, and all buildings constructed subject to this ordinance.
- h. Notify adjacent communities and State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

**SECTION 5. REGULATORY FLOOD ELEVATION.** This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- a. The regulatory flood elevation and floodway limits for the SFHAs of Muddy Fork Creek and Silver Creek shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the Town dated February, 1980, and corresponding FIRM dated August 1, 1980, prepared by the Federal Emergency Management Agency.
- b. The regulatory flood elevation for each SFHAs delineated as an "AH Zone" or an "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Town.
- c. The regulatory flood elevation for each of the remaining SFHAs delineated as an "A Zone" in the Flood Insurance Rate Map of the Town shall be according to the best data available as provided by the Department of Natural Resources.
- d. The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Clark County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town shall be delineated on the 100 year flood profiles in the Flood Insurance Study of Clark County prepared by the Federal Emergency Management Agency and dated March, 1980, and the corresponding FBFM dated September 30, 1980, prepared by FEMA.

- e. If the SFHA is delineated as an "AH Zone or AO Zone", the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources.

**SECTION 6. IMPROVEMENT LOCATION PERMIT.** No person, firm, corporation, or governmental body not exempted by state law shall commence any "Development" in the SFHA without first obtaining an Improvement Location Permit from the Town Zoning Board. The Zoning Board shall not issue an Improvement Location Permit if the proposed "Development" does not meet the requirements of this ordinance.

- a. The application for an Improvement Location Permit shall be accompanied by the following:
  - 1. A description of the proposed development.
  - 2. Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams.
  - 3. A legal description of the property site.
  - 4. A site development plan showing existing and proposed structure locations and existing and proposed land grades.
  - 5. Elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).
- b. Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.
  - 1. If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 7 and 8 of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

2. If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in Section 7 and 8 of this ordinance have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.
3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the Building Official shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from Natural Resources and the provisions contained in Section 7 and 8 of this ordinance have been met.

4. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year flood elevation of the site. Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Section 7 and 8 of this ordinance have been met.

**SECTION 7. PREVENTING INCREASED DAMAGES.** No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- a. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, or engineering analysis as provided in Section 6.6.4., the following standards shall apply:
  1. No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
  2. For all projects involving channel modifications or fill (including levees), the Town shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.
- b. Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard shall apply:
  1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- c. Public Health Standards in all SFHAs:
  1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in floodproofed tanks or floodproofed buildings constructed according to the requirements of Section 8 of this ordinance.
  2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted provided all manholes or other above ground openings located below the FPG are watertight.

**SECTION 8. PROTECTING BUILDINGS.** In addition to the damage prevention requirements of Section 7, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- a. This building protection requirement applies to the following situations:
  1. Construction or placement of any new building having a floor area greater than 400 square feet.

2. Structural alterations made to an existing building that increase the market value of the building by more than 50% (excluding the value of the land) or any structural alteration made previously (one time only alteration);
  3. Any subsequent alterations;
  4. Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred.
  5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site is lawfully occupied before it was removed to avoid flood damage; and
  6. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- b. This building protection requirement may be met by one of the following methods. The Building Official shall maintain a record of compliance with these building protection standards as required in Section 4 of this ordinance.
1. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
    - (a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
    - (b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
    - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
    - (d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
    - (e) The top of the lowest floor (see definition of lowest floor in Section 3. Definitions) shall be at or above the FPG.
  2. A residential or nonresidential building may be elevated in accordance with the following:

- (a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundations provided:
    - (1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
    - (2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
  - (b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as currents, waves, ice, and floating debris.
  - (c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
3. Manufactured homes and travel trailers (also called recreational vehicles) to be installed substantially improved on site for more than 180 days must meet one of the following anchoring requirements:
- (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
    - (1) Outside a manufactured home park or subdivision;
    - (2) In a new manufactured home park or subdivision;
    - (3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

(b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

4. Recreation vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for “manufactured homes” in Paragraph 3 of this section.

5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

#### SECTION 9. OTHER DEVELOPMENT REQUIREMENTS.

a. The Planning Commission shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the (review agency or official) finds the subdivision to be so located, the (review agency or individual)



shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The (review agency or individual) shall require appropriate changes and modifications in order to assure that:

1. It is consistent with the need to minimize flood damages;
  2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  3. Adequate drainage is provided so as to reduce exposure to flood hazards;
  4. On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- b. Developers shall record the 100 year flood elevation on all subdivision plats containing lands identified elsewhere by ordinance as within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- c. All owners of manufactured home parks or subdivisions located within the SFHA, identified as Zone A on the community's FHMB or FIRM, develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

#### SECTION 10. VARIANCES

- a. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:
1. There exists a good and sufficient cause for the requested variance;
  2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant; and
  3. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- b. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:

1. No variance or exception for a residential use within a floodway subject to Section 7 (a) or (b) may be granted;
2. Any variance or exception granted in a floodway subject to Section 7 (a) or (b) will require a permit from Natural Resources;
3. Variances or exceptions to the Building Protection Standards of Section 8 may be granted only when a new structure is to be located on a lot of one-half acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade;
4. Variances or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

**SECTION 11. DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**SECTION 12. VIOLATIONS.** Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Sellersburg. All violations shall be punishable by a fine not exceeding \$ \_\_\_\_\_.

- a. A separate offense shall be deemed to occur for each day the violation continues to exist.
- b. The Sellersburg Zoning and Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

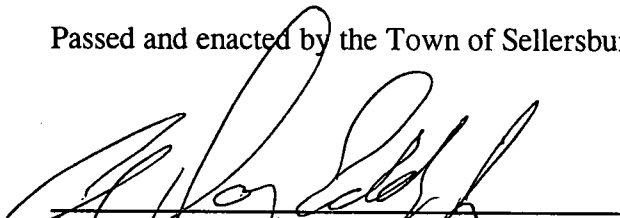
- c. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.


SECTION 13. ABROGATION AND GREATER RESTRICTIONS. This ordinance repeals and replaces other ordinances adopted by the Town Council to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence.

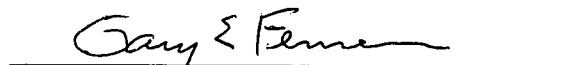
SECTION 14. SEPARABILITY. The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.


SECTION 15. EFFECTIVE DATE. This ordinance shall take effect upon its passage by the Town Council.

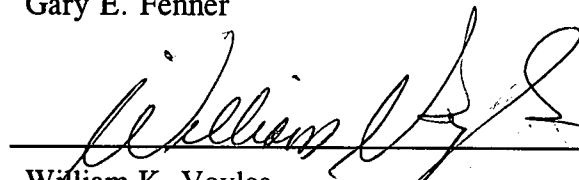
Passed and enacted by the Town of Sellersburg, Indiana, on the 11 day of May, 1998.

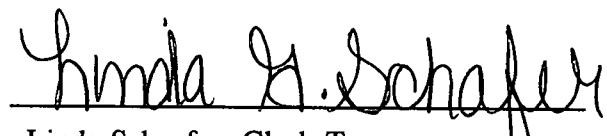
  
A. Douglas Eddings, Jr. - President

  
David Broady, Vice-President

  
Gary E. Fenner

  
Kenneth J. Alexander

  
William K. Voyles

  
Linda Schaefer, Clerk-Treasurer

SO ORDAINED THIS 11 DAY OF May, 1998

David Broady  
DAVID BROADY

Bill Voyles  
BILL VOYLES

Ken Alexander  
KEN ALEXANDER

Aulton D. Eddings  
AULTON D. EDDINGS

Gary Fenner  
GARY FENNER

ATTEST: Linda G. Schaffer  
LINDA G. SCHAFER  
CLERK-TREASURER

RECEIVED  
FOR RECORD

22829

COPY

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OCT 23 8 00 PM '98

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RECORDED IN DRA  
INSTR NO. 22829  
RALPH C. STEMLER  
RECORDER OF CLARK CO.

**ORDINANCE NO. 98-692**

**AN ORDINANCE CONCERNING THE ANNEXATION  
OF THE ADJACENT AND CONTIGUOUS TERRITORIES**

WHEREAS, the boundary of the Town of Sellersburg, Indiana, is adjacent to the real estate described herein;

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

**Section I**

The following described real property, a copy of said description is attached hereto and incorporated herein as "Exhibit 1", be, and the same is, hereby annexed to and declared a part of the Town of Sellersburg, Indiana.

**Section II**

BE IT FURTHER THEREFORE ORDAINED, that the boundaries of the Town of Sellersburg, Indiana, shall be, and the same are, hereby declared to be extended to include all the real estate herein described in "Exhibit 1" attached hereto, as a part of the Town of Sellersburg, Indiana.

**Section III**

This ordinance shall be in full force and effect from and after its passage, proclamation and publication in accordance with I.C. 36-4-3-7 and I.C. 5-3-1, to take effect at least sixty (60) days

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

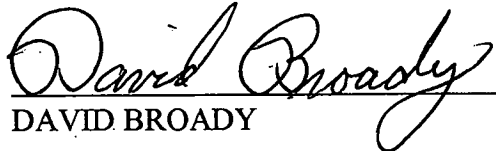
OCT 23 1998


  
AUDITOR CLARK COUNTY

after its date of publication and upon the filings required under I.C. 36-4-3-22(a).

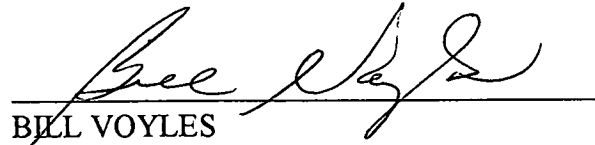
The property herein described is assigned to the Town of Sellersburg Municipal  
Legislative Body District, Precinct Number 4.

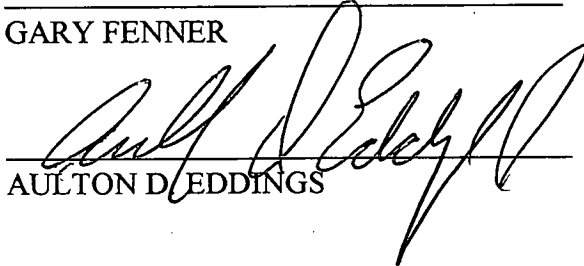
SO ORDAINED this 27<sup>th</sup> day of July, 1998.

  
\_\_\_\_\_  
DAVID BROADY

  
\_\_\_\_\_  
KEN ALEXANDER

\_\_\_\_\_  
GARY FENNER

  
\_\_\_\_\_  
BILL VOYLES

  
\_\_\_\_\_  
AULTON D. EDDINGS

ATTEST:   
\_\_\_\_\_  
LINDA SCHAFFER  
CLERK-TREASURER

PREPARED BY:

William P. McCall, III  
Attorney for the Town of Sellersburg  
332 Spring Street  
Jeffersonville, Indiana 47130  
(812) 282-9000

**ANALYSIS AND FISCAL PLAN  
ANNEXATION AREA "I"**

**TOWN OF SELLERSBURG, INDIANA**

**Town Board of Trustees**

A. Douglas Eddings, Jr.	President
David Broady	Vice President
Gary E. Fenner	Member
Kenneth J. Alexander	Member
William K. Voyles	Member
Linda Schafer	Clerk-Treasurer

**May, 1998**

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## INTRODUCTION

The purpose of this report is to provide information necessary to make a fiscally responsible decision regarding the annexation of currently unincorporated territory. This report includes an analysis and comparison of projected revenues to be generated and estimated cost to be incurred as a result of the proposed annexation. This report will also serve as a written fiscal plan meeting annexation policy requirements which must be included in a resolution of the municipal body related to the annexation of the proposed area. Such a plan and policy is in conformance with State statutory requirements. This plan will clearly illustrate that the proposed annexation meets the requirements of IC36-4-3-13 (b), (c); or (d).

## STATUTORY REQUIREMENTS

A municipality, as provided by IC36-4-3-3 may, by ordinance, annex territory that is contiguous to the existing corporate boundaries of said municipality. Contiguity is defined as at least  $\frac{1}{8}$  of the aggregate external boundaries of the territory proposed to be annexed coinciding with the existing external boundaries of the municipality. IC36-4-3-4 provides exceptions to the contiguity requirement for areas that have certain land uses delineated in IC36-4-3-4 or otherwise meet the conditions of IC36-4-3-4.

In addition to the contiguity requirements, a municipality must also meet one of the following conditions of IC36-4-3-13 (b):

1. The resident population density is at least three persons per acre; or
2. Sixty percent of the territory is subdivided; or
3. The territory is zoned for commercial, business or industrial use.

IC36-4-3-13 (c) provides that an annexation may still take place, even though the  $\frac{1}{8}$  contiguity requirements and one of the above three conditions of IC36-4-3-13 (b) are not met, if the following conditions of IC36-4-3-13 (c) are met:

1. At least  $\frac{1}{4}$  of the aggregate external boundaries of the territory sought to be annexed coincides with the existing municipal boundaries; and
2. The territory sought to be annexed is need and can be used by the municipality for its development in the reasonably near future.

Additionally, as required by IC36-4-3-13 (d), the municipality must develop a written fiscal plan and establish a definite policy by resolution of the legislative body, as of the date of passage of the annexation ordinance relative to the territory to be annexed. The resolution must show:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed;
- (2) The method or methods of financing the planned services;
- (3) The plan for the organization and the extension of services.
- (4) That planned services of a non-capital nature, including police protection, fire protection, street and road maintenance, and other non-capital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those non-capital services provided to areas within the corporate boundaries that have similar topography, patterns of land use, and population density;
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and storm water drainage facilities, will be provided to the annexed territory within three (3) years after the effective date to the annexation, in the same manner as those services are provided to areas within the corporate boundaries that have similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria; and
- (6) The plan for hiring the employees of other governmental entities whose jobs will be eliminated by the proposed annexation, although the municipality is not required to hire any employees.

### SUMMARY INFORMATION OF THE PROPOSED ANNEXATION AREA

The area proposed to be annexed is hereinafter referred to as 1998 Annex Area I. The tract is fully described in the legal description attached as Exhibit 1 of this fiscal plan.

#### Population and Demographic Information

Total Acres <sup>1</sup>	Approximate Number of Households <sup>2</sup>	Estimated Population Per Acre	Total Population <sup>3</sup>	% Contiguous <sup>1</sup>
157.6	114	1.737	274	13.39%

Sources:

1. Legal Description.
2. Based on topographical maps, aerial maps and a windshield survey.
3. 1990 Census of Population and Housing, 507.02 Census Tract average person per household (data was rounded after computing).

### **IC36-4-3-13 (b) or (c) Requirements**

The proposed annexation of 1998 Annex Area I meets the following statutory conditions of IC36-4-3-13 (b):

1. 1998 Annex Area I meets the  $\frac{1}{8}$  contiguity requirement all being over 12.5% contiguous to the existing external municipal boundaries. As shown above, the 1998 Annex Area I is 13.39% contiguous.
2. 1998 Annex Area I is territory that is over 60% subdivided.

### **COMPARABLE AREA**

The area selected is the Woodhaven Area, generally located south of St. Joe Road, East of I-65, North and West of Dreyer Lane. The areas are similar in the type of homes, all internal streets, topography and drainage.

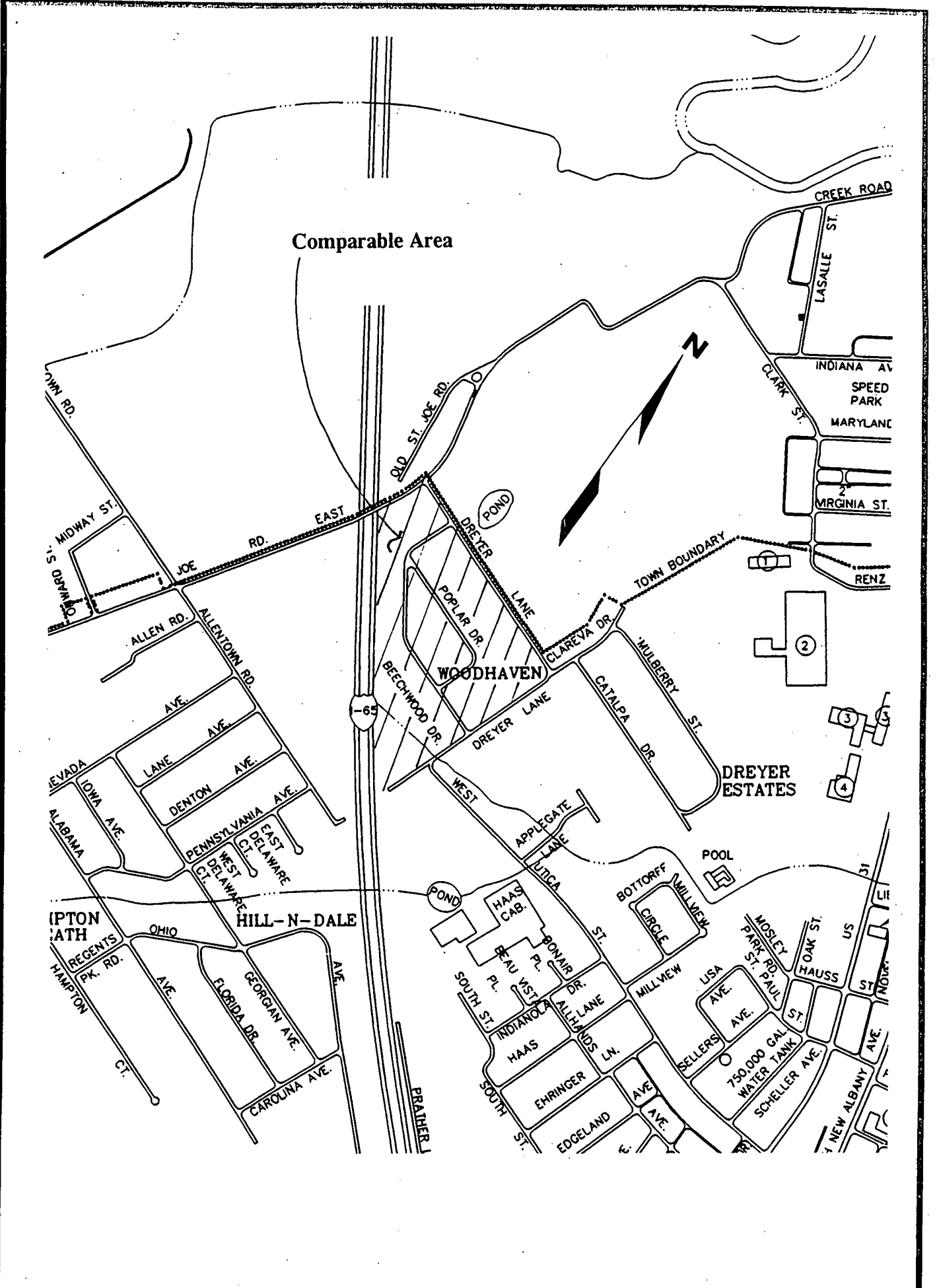
The area is also similar in that it is bordered on the North by St. Joe Road, a collector road similar to Poindexter Lane.

The topography of the area is similar, in that they are both of gently rolling land.

Both areas are also comparable since they are of single family homes with no business or commercial development.

Both areas have a good deal of mature trees.

These areas were found to have similar and comparable topography, land use patterns and population density.



**1998 ANNEX AREA I  
ANALYSIS AND FISCAL PLAN FOR THE EXTENSION OF  
CAPITAL/NON-CAPITAL SERVICES**

The proposed annexation will require the provision of services of a non-capital or capital improvement nature to 1998 Annex Area I in a manner equivalent in standard and scope to services now provided to the present municipality with similar topography, patterns of land use and population density. 1998 Annex Area I is approximately 157.6 acres in size and is fully described in the legal description attached as Exhibit 1 of this fiscal plan section of the report. 1998 Annex Area I contains an estimated population of 274 persons and 114 households. Summary demographic information is included in Chapter II of this report. This fiscal plan portion of the report analyzes the impact that the proposed annexation will have on the municipality in the form of additional cost and outlines an plan for the provision, organization, and extension of capital/non-capital services delineating the method or methods of financing the extension of such services within the time frame requirements in accordance with IC36-4-3-13 (d). Compliance with IC36-4-3-13 (b) or (c) is summarized in this report and is more thoroughly illustrated individually for 1998 Annex Area I at the end of this section.

**Fire Protection**

Fire protection is now provided to 1998 Annex Area I and to the Town of Sellersburg, both of which are within the Sellersburg Volunteer Fire Department jurisdiction area which includes all of Silver Creek Township. Upon annexation, the provision of fire protection services, equivalent in standard and scope to fire protection services available to existing corporate areas and its residents, will continue to be provided by the Sellersburg Volunteer Fire Department at no additional cost to the municipality.

**Streets**

The Town of Sellersburg currently maintains 23.81 Certified Miles of streets. The Town will assume maintenance responsibility for an additional 2.46 miles of new roads in 1998 Annex Area I. Since these streets have all been fully paved in 1992, it will not be necessary for the Town to expend any funds for street maintenance, paving or repair in the foreseeable future (10 years).

By petition of residents along roads for which the Town has maintenance responsibility, street lighting is installed with the cost borne by the electric utility and the ongoing operating cost assumed by the municipality. Street lighting installations closer than 400 feet from another street light are not considered necessary since the effective range of any two street lights would be duplicated. Street lighting to residents who reside along state highways or roads which are maintained by the county are the responsibility of those respective governmental entities. Since there are county roads located in 1998 Annex Area I for which the Town will assume maintenance responsibility, the provision of street light services to 1998 Annex Area I will be the responsibility of the Town of Sellersburg. This is consistent with the existing Town policy and therefore, the

provision of street light services as described above is in a manner equivalent in standard and scope to street lighting services now provided within the existing Town boundaries and its residents.

### **Water Service**

1998 Annex Area I is within the service area of the Sellersburg Municipal Water Department or Silver Creek Water Corporation. Water service is now provided to 1998 Annex Area I and will continue upon annexation. The Water Departments will continue to provide water service equivalent in standard and scope to water service provided to the existing corporate areas and residents. Water service will continue with no improvements of a capital nature or additional non-capital services attributable to annexation at no additional cost to the municipality.

### **Recreation**

All municipal recreational facilities can accommodate and will be available to residents of 1998 Annex Area I immediately without affecting the capacity of such facilities or the responsible administrative department at no additional cost to the municipality.

### **Police Protection**

Upon annexation, 1998 Annex Area I will be served by the Town of Sellersburg's Police Department. Patrols currently are made within areas adjacent to 1998 Annex Area I. The Sellersburg Police Department currently must utilize area roads to access and patrol currently incorporated areas of the municipality.

The addition of 1998 Annex Area I to the Police Department's jurisdiction and the provision of police protection services will not significantly affect the capacity of the Police Department. In fact, it will provide a route to the areas that the Police Department must currently patrol.

Upon annexation, overall police protection and patrols equivalent in standard and scope to police service now provided to existing municipal residents will commence in 1998 Annex Area I without significantly affecting the capacity of available police service. The additional area to receive police protection will increase cost, requiring one new vehicle and officer, and could be viewed as a logical addition to the jurisdictional limits of the Police Department.

### **Garbage Collection**

The Town of Sellersburg provides one garbage pick-up per week for residents, businesses and industries. There is a \$3.00 per month charge for this first pick-up and additional charges for provision of dumpster-type containers. The annexation of Area I will not require any additional personnel or equipment.

## **Zoning, Building Permits, and Inspection**

The Town of Sellersburg's zoning regulations would become effective immediately upon the incorporation of 1998 Annex Area I. Upon annexation, the Town of Sellersburg will assume the administration and responsibility of zoning, building permits, inspections and other related services of 1998 Annex Area I in a manner equivalent in standard and scope to these services now provided to areas within the existing corporate limits. No measurable increase in operating or capital cost will occur with the extension of these services. Therefore, no additional cost to the Town for the provision of these services will occur as a result of the incorporation of 1998 Annex Area I.

## **Sanitary Sewers**

Most of 1998 Annex Area I is currently served by the Town's municipal sewer system. As new development occur, sanitary sewer service will be available to the new developments. It is the existing policy of the Town that the developer finance the extension of sanitary sewer lines to any proposed development. The capacity of the sewer system can accommodate any reasonable anticipated future development in 1998 Annex Area I.

Any future developments will be provided sanitary sewer service extensions with the cost to be financed by the developer at no cost to the municipality. New developments are likely to occur within the reasonably near future requiring the extension of sanitary sewer services that will be financed by the developer.

There will be an expense to serve those existing residents in the area not now served by Sanitary Sewer service.

This is consistent with sanitary sewer service provided to existing municipal areas and its residents with similar topography, patterns of land use and population density.

## **Storm Sewers**

1998 Annex Area I is currently served by existing creeks, streams and ditches with some actual storm sewers and catch basins.

There will be some storm sewer repairs and improvements that will have to be done in Annex Area I.

## **Other Municipal Functions**

The annexation of 1998 Annex Area I will not measurably impact other municipal services of a non-capital or capital improvement nature not previously mentioned. Upon annexation, any other capital or non-capital services not previously mentioned that are available within the Town and

expenditure of additional funds, in a manner equivalent in standard and scope to such services that are now provided within the existing municipal boundaries.

### **Plan for Hiring**

The annexation of 1998 Annex Area I may require the hiring of one new employee. The jobs of no employees of other governmental entities will be eliminated by the proposed annexation.

### **Summary of Cost/Financing Methods/Plan for Service Extensions**

The following section summarizes the operating and capital costs to the municipality that can reasonably be expected to increase significantly as a result of the proposed annexation and the provision of services, of a non-capital nature or capital improvement nature, in a manner equivalent in standard and scope to those now provided to existing corporate areas that have similar topography, patterns of land use, and population density. Also summarized are the methods of financing the extension of services, and the plan for the organization and extension of services. This section summarizes the above analysis and clearly illustrates compliance with IC36-4-3-13 (d).

#### Fire Protection

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

Upon annexation, the provision of fire protection services, equivalent in standard and scope to fire protection services available to existing corporate areas and its residents, will continue to be provided by the Sellersburg Volunteer Fire Department at no additional cost to the municipality.

#### Streets

Cost: Street Lighting  
(Capital): \$ 0.00  
(Non-Capital): \$ 622.00  
Method of Financing: General Fund  
Plan for Service Extensions:

Because County roads are located within 1998 Annex Area I for which the Town will assume maintenance responsibility, the extension of street lighting or street maintenance services will be necessary. Since the streets were all completely paved in 1992, it will not be necessary to repave them in the three year period (not for 10 years), however, it may be necessary to install street lights where requested by one or more residents.



Water Service

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

Water service is now provided to 1998 Annex Area I by the Sellersburg Municipal Water Department and Silver Creek Water Corporation and will continue upon annexation to 1998 Annex Area I at no additional cost to the Town.

Recreation

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

All municipal recreational facilities can accommodate and will be available to residents of 1998 Annex Area I immediately upon annexation without significantly affecting the capacity of such facilities or responsible administrative department at no additional cost to the municipality.

Police Protection

Cost:	Vehicles & Equipment	Salary
(Capital):	\$ 29,000	
(Non-Capital):		\$ 32,000
Method of Financing:	General Fund	
Plan for Service Extensions:		

Overall police protection and patrols equivalent in standard and scope to police service now provided to existing municipal residents will commence upon annexation of 1998 Annex Area I without affecting the capacity of available police service. One new officer with vehicle and equipment will need to be added.

Garbage Collection

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

Upon annexation, garbage collection service to the area will begin upon request (in a manner equivalent in standard and scope to this service now being provided to existing

Upon annexation, garbage collection service to the area will begin upon request (in a manner equivalent in standard and scope to this service now being provided to existing corporate residents) and will not significantly affect the capacity of the department providing this service.

#### Zoning, Building Permits and Inspections

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

The Town of Sellersburg's zoning regulations would become effective immediately upon the incorporation of 1998 Annex Area I. Upon annexation, the Town of Sellersburg will assume the administration and responsibility of zoning, building permits, inspections and other related services of 1998 Annex Area I in a manner equivalent in standard and scope to these services now provided to areas within the existing corporate limits. No measurable increase in operating or capital costs will occur with the extension of these services.

#### Sanitary Sewers

Cost: Sanitary Sewers  
(Capital): \$ 285,000  
(Non-Capital): 0.00  
Method of Financing: Utility Revenues  
Plan for Service Extensions:

Most existing residents of 1998 Annex Area I are being served by the Town sewer system. Any future developments will have sanitary sewer service available with the cost of extensions to be financed by the developer at no cost to the municipality. There are however some sanitary sewers that will need to be built to serve all residents.

#### Storm Sewers

Cost: Storm Sewers  
(Capital): \$ 11,000  
(Non-Capital): 0.00  
Method of Financing: General Fund  
Plan for Service Extensions:

There will be some pipe, catch basins and repairs that will need to be done in Annex Area I.

### Other Municipal Functions

Cost: \$ 0.00  
Method of Financing: N/A  
Plan for Service Extensions:

Upon annexation, any other capital or non-capital services not previously mentioned that are available within the Town and to its residents, will be provided within 1998 Annex Area I and to its residents. The capacity of any other department not previously mentioned will not be measurably affected. Any such services will be extended without the expenditure of additional funds in a manner equivalent in standard and scope to such services that are now provided within the existing municipal boundaries.

### **IC36-4-3-13 (b) or (c) Requirements**

The proposed annexation of 1998 Annex Area I, meets the following statutory conditions of IC36-4-3-13 (b):

1. 1998 Annex Area I meets the  $\frac{1}{8}$  contiguity requirement being over approximately 13.39 percent contiguous to the existing external municipal boundaries.
2. 1998 Annex Area I is 60 percent subdivided.

1998 Annex Area I has substantial development potential with the provision of municipal services, primarily access to a sewage system, that can accommodate the potential growth of 1998 Annex Area I, is available.

### **Conclusion**

This fiscal plan has analyzed the impact of the annexation of 1998 Annex Area I on each municipal service category in terms of additional cost to the municipality. It should be noted that any municipal service improvement needs or expenditure of funds necessary, regardless of annexing 1998 Annex Area I that are not attributable to the incorporation of 1998 Annex Area I, are not considered in this fiscal plan. Where applicable, the source of funds necessary to finance the extension of required services were indicated and a plan was outlined for the provision, organization and extension of capital and non-capital services. Thus, this fiscal plan section of the report conforms with and meets the requirements of IC36-4-3-13 (d). Also, as thoroughly illustrated above, the annexation of 1998 Annex Area I clearly complies with the requirements of IC36-4-3-13 (b).

**EXHIBIT "1"**  
**1998**  
**DESCRIPTION OF SELLERSBURG ANNEX AREA "I"**

A part of Survey No. 108 of the Illinois Grant in Clark County, Indiana, bounded as follows:

Beginning at the southeast corner of the first tract described at Deed Drawer 19, Instrument No. 1404, which point is in the southwesterly right-of-way line of new State Road 60 and in the present boundary of the Town of Sellersburg, thence the following courses:

- South 69 deg. 25 min. 46 sec. West, 405.23 feet, more or less, with the south line of said tract, and the Clarksville Town line to a point in the southeasterly line of Twin Brook Subdivision, Unit 2, recorded at Plat Book 8, page 77;
- South 48 deg. 24 min. 47 sec. West, 497.46 feet, more or less, with said southeasterly line and the Town line of Clarksville;
- South 48 deg. 47 min. 58 sec. West, 90.39 feet, more or less, with said southeasterly line and the Town line of Clarksville to the south corner of said Twin Brook Subdivision, Unit 2;
- North 41 deg. 12 min. 02 sec. West, 199.99 feet, more or less, with the southwesterly line of said Twin Brook Subdivision, Unit 2, and the Clarksville Town line to a point in the southeast line of a tract described at Deed Drawer 13, Instrument 9321;
- South 48 deg. 47 min. 58 sec. West, 533.04 feet, more or less, with the southeast line of said tract and the Clarksville Town line to the south corner of said tract;
- North 39 deg. 59 min. 25 sec. West, 731.14 feet, more or less, with the southwest line of said tract and the Clarksville Town line to a point in the southeast line of a tract recorded at Deed Drawer 15, Instrument No. 9623;
- South 48 deg. 15 min. 02 sec. West, 2058.93 feet, more or less, with the southeast line of said tract, and others, and the Clarksville Town line to the south corner of a tract recorded at Deed Drawer 18, Instrument No. 7685;
- South 48 deg. 45 min. West, 856.3 feet, more or less, with the southeast line of tracts recorded at Deed Drawer 28, Instrument No. 11807 and 11808; Deed Drawer 18, Instrument No. 3119; Deed Record 238, page 362; Deed Record 185, page 351; and Deed Drawer 4, Instrument No. 7231 and the Clarksville Town line to the north corner of a tract recorded at Deed Drawer 14, Instrument No. 4260;
- South 40 deg. East, 264 feet, more or less, with the northeast line of said tract and a tract recorded at Deed Drawer 28, Instrument No. 21089 and the Clarksville Town line to the easterly corner of said tract;
- South 49 deg. 59 min. 01 sec. West, 745 feet, more or less, with the southeast line of said tract and the Clarksville Town line to the northeasterly right-of-way line of County Line Road;
- North 40 deg. West, 1167.5 feet, more or less, with said northeasterly right-of-way line of County Line Road to the southeasterly right-of-way line of Poindexter Road;

North 48 deg. 45 min. East, 5900 feet, more or less, with said southeasterly right-of-way line of Poindexter Lane , crossing new State Road 60 to it's northeasterly right-of-way line, which is the present Town boundary of Sellersburg;

Southeasterly, 1200 feet, more or less, with said northeasterly right-of-way line of new State Road 60 and the Sellersburg Town line to old State Road 60;

Westerly, 205 feet, more or less, crossing new State Road 60 with the Sellersburg Town line to the southwesterly right-of-way line of new State Road 60 which is the Sellersburg Town line;

Southeasterly, 870 feet, more or less, with said right-of-way line and the Sellersburg Town line to the point of beginning, and containing 157.6 acres of land, more or less.



**ORDINANCE NO. 1998-693**

**AN ORDINANCE OF THE TOWN OF SELLERSBURG, INDIANA,  
ADOPTING A NEW SCHEDULE OF RATES AND CHARGES  
FOR WATER SERVICE**

WHEREAS, the Town of Sellersburg, Indiana owns and operates a municipal water utility (the "Utility") for the purpose of providing water utility service in and around said Town; and

WHEREAS, the Utility's existing rates and charges for water service were approved by the Town Board and placed into effect following the Indiana Utility Regulatory Commission's ("IURC") approval thereof in Cause No. 39064, Order dated October 9, 1991; and

WHEREAS, the Town of Sellersburg has employed H.J. Umbaugh & Associates to perform a study of the Utility's revenue requirements under IC 8-1.5-3-8; and

WHEREAS, the Town Board of the Town of Sellersburg now finds that (i) the Utility's existing rates and charges for water service should be increased, and (ii) the proposed rates and charges attached hereto as Exhibit A are designed to that they are nondiscriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8; and

WHEREAS, it is desirable to provide funds to compensate the Town of Sellersburg for taxes that would be due said Town on the Utility's property were it privately owned; and

WHEREAS, on January 12, 1998, the Town of Sellersburg filed a Petition with the IURC seeking approval of a new schedule of rates and charges, which Petition was docketed as Cause NO. 41107; and

NOW, THEREFORE, BE IT ORDAINED, by the Town Board of the Town of Sellersburg, Indiana, as follows:

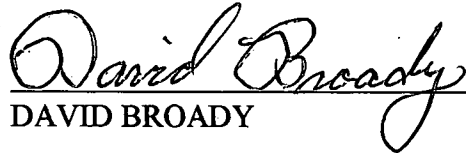
Section 1. That the rates and charges of the Sellersburg Municipal Water Utility be increased as proposed in Exhibit A, which is made a part hereof.

Section 2. That the above and foregoing described rates and charges provide compensation to the Town of Sellersburg for taxes that would be due the Town on the Utility's property were it privately owned.

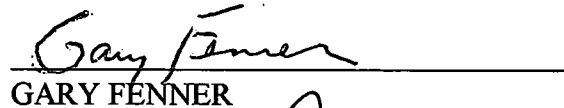
Section 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed effective at such time as the schedule or rates and charges herein set forth become effective.

Section 4. This ordinance shall be in full force and effect from and after its passage, provided that the schedule of rates and charges herein set out shall not become effective until it is approved by the IURC, or said rates and charges may otherwise be lawfully imposed.

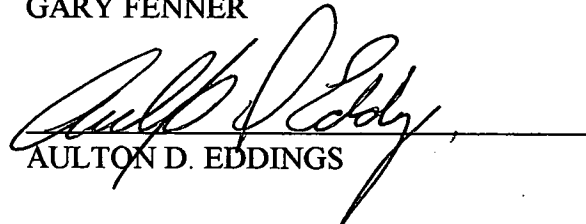
PASSED AND ADOPTED by the Town Board of the Town of Sellersburg, Indiana, this 8<sup>th</sup> day of June, 1998.

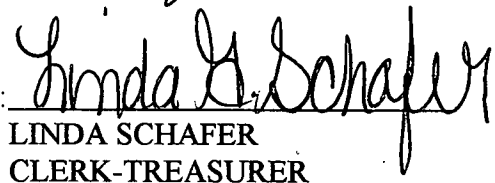
  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

  
BILL VOYLES

  
AULTON D. EDDINGS

ATTEST:   
LINDA SCHAFER  
CLERK-TREASURER

PREPARED BY:

William P. McCall, III  
Attorney for the Town of Sellersburg  
332 Spring Street  
Jeffersonville, Indiana 47130  
(812) 282-9000



**SELLERSBURG (INDIANA) MUNICIPAL WATER UTILITY**

**SUMMARY OF PRESENT AND PROPOSED WATER RATES AND CHARGES**

			Monthly Rate	
			Per 1,000 Gallons	
			Present (1)	Proposed (2)
<u>Metered Consumption</u>				21.71%
First	2,500	gallons	\$3.10	\$3.77
Next	500	gallons	2.55	3.10
Next	2,000	gallons	2.11	2.57
Next	15,000	gallons	1.69	2.06
Next	30,000	gallons	1.25	1.52
Over	50,000	gallons	0.96	1.17

Wholesale Customers

Rural Membership Water Corporation of Clark County	\$1.03	\$1.25
--	--------	--------

<u>Minimum Charge</u>	Gallons Allowed For Minimum	Per Month	
		Present (1)	Proposed (2)
5/8 - 3/4 inch meter	2,033	\$6.31	\$7.66
1 inch meter	6,410	15.65	19.02
1 1/4 inch meter	13,800	28.17	34.24
1 1/2 inch meter	19,394	37.65	45.77
2 inch meter	37,254	60.24	73.24
3 inch meter	133,495	156.63	190.30
4 inch meter	221,000	240.95	292.69
6 inch meter	439,769	451.78	548.64

Notes

- (1) Present base rates and charges adopted by the Town Council pursuant to IURC Order in Cause No. 39064, dated October 9, 1991.
- (2) Proposed rates and charges represent an across-the-board increase in present rates and charges.

(Continued on next page)

(The Accountants' Compilation Report and the accompanying comments are an integral part of this statement.)

Exhibit A

## SELLERSBURG (INDIANA) MUNICIPAL WATER UTILITY

SUMMARY OF PRESENT AND PROPOSED WATER RATES AND CHARGES

		Per Annum	
		Present (1)	Proposed (2)
Private Fire Protection - Sprinklers			21.71%
1 1/2	inch connection	\$26.37	\$32.09
2	inch connection	46.81	56.97
2 1/2	inch connection	73.17	89.06
3	inch connection	105.36	128.23
4	inch connection	187.42	228.11
6	inch connection	421.65	513.19
8	inch connection	749.59	912.33

Fire Protection - Hydrants

		Per Annum	
Private hydrants (inside and outside Town) - per hydrant		\$421.65	\$513.19
Public hydrants			
Inside Town - per hydrant		421.65	513.19
		Per Month	
Outside Town - surcharge per customer within 1,000 feet of a fire hydrant		\$2.35	\$2.86

Notes

- (1) Present base rates and charges adopted by the Town Council pursuant to IURC Order in Cause No. 39064, dated October 9, 1991.
- (2) Proposed rates and charges represent an across-the-board increase in present rates and charges.

(The Accountants' Compilation Report and the accompanying comments are an integral part of this statement.)

ORDINANCE 98-694

*Approved*  
*This One*  
*June 22, 98*

1999 SALARY, HOLIDAY AND LONGEVITY PAY

WHEREAS, the Town of Sellersburg desires to pass the herein Ordinance in order to establish and clarify the salary, holiday and longevity pay of employees of the Town; and

WHERE, said Ordinance is necessary for the efficient administration of the Town.

NOW, THEREFORE, BE IT ORDAINED, this \_\_\_\_\_ day of \_\_\_\_\_ 1998, by the Town Council of the Town of Sellersburg, that;

The following annual/weekly/hourly wage, holiday and longevity pay, as indicated, shall be paid to the following employees, from the funds as indicated, effective January 1, 1999.

GENERAL FUND

TOWN COUNCIL MEMBER (PRESIDENT)	6066.24	PER YEAR	
TOWN COUNCIL MEMBER	4866.24	PER YEAR	
TOWN COUNCIL MEMBER	4866.24	PER YEAR	
TOWN COUNCIL MEMBER	4866.24	PER YEAR	
TOWN COUNCIL MEMBER	4866.24	PER YEAR	
TOWN MANAGER	30000.36	PER YEAR	
TOWN ATTORNEY	28000.00	PER YEAR	
CLERK TREASURER	27309.88	PER YEAR	
CHIEF DEPUTY CLERK	384.00	PER WEEK	9.60 PER HOUR
TOWN HALL CLERK	341.20	PER WEEK	8.53 PER HOUR
PART-TIME DEPUTY CLERK	222.08	PER WEEK	6.94 PER HOUR
POLICE COMMISSIONER	500.00	PER YEAR	
POLICE COMMISSIONER	500.00	PER YEAR	
POLICE COMMISSIONER	500.00	PER YEAR	
POLICE COMMISSIONER	500.00	PER YEAR	
POLICE COMMISSIONER	500.00	PER YEAR	
PARKS BOARD MEMBER	300.00	PER YEAR	
PARKS BOARD MEMBER	300.00	PER YEAR	
PARKS BOARD MEMBER	300.00	PER YEAR	
PARKS BOARD MEMBER	300.00	PER YEAR	
PARKS BOARD MEMBER	300.00	PER YEAR	
PLANNING COMMISSION MEMBER	300.00	PER YEAR	
PLANNING COMMISSION MEMBER	300.00	PER YEAR	
PLANNING COMMISSION MEMBER	300.00	PER YEAR	
PLANNING COMMISSION MEMBER	300.00	PER YEAR	
PLANNING COMMISSION MEMBER	300.00	PER YEAR	
ZONING APPEALS MEMBER	300.00	PER YEAR	
ZONING APPEALS MEMBER	300.00	PER YEAR	
ZONING APPEALS MEMBER	300.00	PER YEAR	
ZONING APPEALS MEMBER	300.00	PER YEAR	
ZONING APPEALS MEMBER	300.00	PER YEAR	
ZONING APPEALS SECRETARY	300.00	PER YEAR	

STREET AND SANITATION DEPARTMENT

SUPERINTENDENT	632.32	PER WEEK	
TRUCK DRIVER	417.60	PER WEEK	10.44 PER HOUR
LABORER/CREW LEADER	417.60	PER WEEK	10.44 PER HOUR
LABORER	352.80	PER WEEK	8.82 PER HOUR
LABORER	352.80	PER WEEK	8.82 PER HOUR
LABORER	352.80	PER WEEK	8.82 PER HOUR
LABORER	373.60	PER WEEK	9.34 PER HOUR
LABORER	352.80	PER WEEK	8.82 PER HOUR

1999 SALARY, HOLIDAY AND LONGEVITY PAY  
CONTINUED

POLICE DEPARTMENT

DISPATCHER	9.25 PER HOUR	✓
DISPATCHER	9.00 PER HOUR	✓
DISPATCHER	9.00 PER HOUR	✓
DISPATCHER	9.00 PER HOUR	✓
DISPATCHER	9.00 PER HOUR	✓
PART-TIME DISPATCHER	8.50 PER HOUR	✓

Holiday pay for Dispatchers will be determined on 3 persons for 9 holidays which will be 27 days x 8 hours which equals 216 hours x an average of 9.05 per hour.

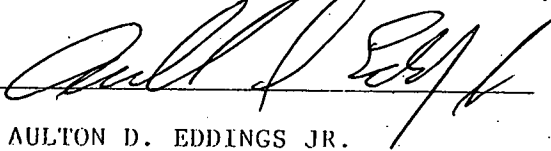
CHIEF OF POLICE SALARY	37685.44 PER YEAR	(18.118) PER HOUR
CHIEF OF POLICE INSURANCE	1617.24 PER YEAR	134.99 PER MONTH
CHIEF OF POLICE HOLIDAY	1304.49 PER YEAR	
CHIEF OF POLICE LONGEVITY	1231.56 PER YEAR	
CHIEF OF POLICE PERF	6322.12 PER YEAR	1580.53 PER QUARTER

	<u>SALARY</u>	<u>HOLIDAY</u>	<u>LONGEVITY</u>
ASSISTANT CHIEF	656.56 (16.414)	1181.80	1505.24
CAPTAIN (TBA)	573.60 (14.340)	1032.48	-0-
SERGEANT	565.96 (14.149)	1018.72	2736.80
SERGEANT	565.96 (14.149)	1018.72	1778.92
PATROLMAN	527.96 (13.199)	950.32	1915.76
PATROLMAN	526.32 (13.158)	947.37	410.52
PATROLMAN	526.32 (13.158)	947.37	410.52
PATROLMAN	526.32 (13.158)	947.37	273.68
PATROLMAN	526.32 (13.158)	947.37	273.68
PATROLMAN	486.28 (12.157)	947.37	-0-
PATROLMAN	486.28 (12.157)	947.37	-0-
NEW PATROLMAN (TBA)	486.28 (12.157)	875.30	-0-

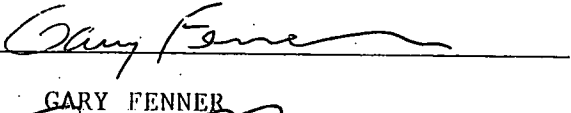
\*Patrolman hired in 1998 will receive an increase in pay on their one year anniversary date to equal a 1st class Patrolman's pay. Holiday pay will also be adjusted to equal that of a 1st class Patrolman.

The Salary Ordinance is subject to change due to section 03.2 - vacations in the policies and procedures manual adopted by the Sellersburg Town Council 05/11/92.

SO ORDAINED THIS 22nd DAY OF June, 1998 FOR THE COMING YEAR OF 1999.

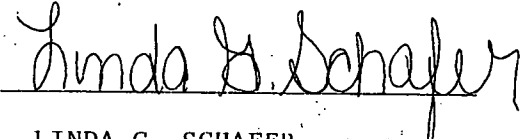
  
AULTON D. EDDINGS JR.

\_\_\_\_\_  
DAVID BROADY

  
GARY FENNER

\_\_\_\_\_  
WILLIAM VOYLES

  
KENNETH ALEXANDER

ATTEST:   
LINDA G. SCHAFFER  
CLERK TREASURER

ORDINANCE NO. 98-695

AN ORDINANCE AUTHORIZING ZONING CHANGE WITHIN THE  
TOWN OF SELLERSBURG, INDIANA

WHEREAS, the Town of Sellersburg Plan Commission has received a Petition requesting a change of zoning for a certain parcel of real property commonly known as the Daniel F. Johnson and Betty Jean Johnson property located within the Town of Sellersburg, Indiana, which is more accurately identified and described by Exhibit A, attached hereto; and incorporated by reference herein; and,

WHEREAS, the Town of Sellersburg Plan Commission has reviewed the Petition requesting a change of zoning; and,

WHEREAS, the Town of Sellersburg Plan Commission determined that the Petition requesting a change of zoning complied with the requirements of Section 3.4.4 of the Zoning Ordinances of the Town of Sellersburg; and,

WHEREAS, the Town of Sellersburg Plan Commission has approved zoning change and recommended to the Sellersburg Town Council that said Petition for zoning change be approved; and,

WHEREAS, the Sellersburg Town Council has applied the standards and requirements as set out in Section 3.4.4(5) and has determined the requests for zoning change meets these standards and requirements; and,

WHEREAS, the Sellersburg Town Council has determined that the herein Ordinance will provide for the effective administration of Town Government; and,

WHEREAS, this matter was considered at a public meeting at which the public were invited to attend and participate.

IT IS, THEREFORE, NOW ORDAINED BY THE SELLERSBURG TOWN COUNCIL AS FOLLOWS:

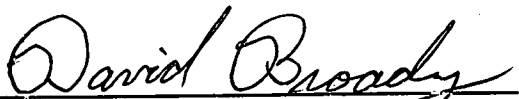
THAT A CERTAIN PARCEL OF REAL PROPERTY COMMONLY KNOWN AS THE DANIEL F. JOHNSON AND BETTY JEAN JOHNSON PROPERTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

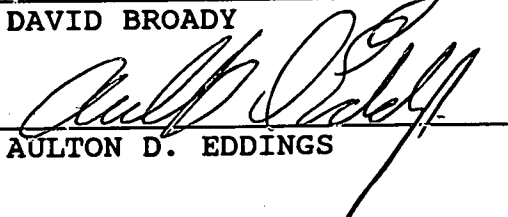
A part of Survey No. 88 of the Illinois Grant, Clark County, Indiana, bounded as follows: Beginning at a point in the center line of State Highway No. 31-W, 359.245 feet Southwest from an iron pin in the center of State Highway No. 31-W, said iron pin being South 54 deg.

the North line of W. D. Straw's land 425 feet, more or less, to an iron pin in the center of State Highway No. 31-W (said iron pin being South 54 deg. 22' West 2350.92 feet from the North line of said Survey No. 88); thence South 23 deg. 13' West 297.99 feet to an iron pin in the center of State Highway No. 31-W; thence South 25 deg. 10' West 60.955 feet to the Place of Beginning, containing 0.89 acre, more or less.

SHALL NOW BE REZONED AND THE CURRENT ZONING OF R-1 SINGLE FAMILY RESIDENCE OF THE ABOVE DESCRIBED AREA SHALL BE CHANGED TO B-3 GENERAL BUSINESS.

DATED: ~~June 23rd~~ <sup>July 27th</sup>, 1998.

  
\_\_\_\_\_  
DAVID BROADY

  
\_\_\_\_\_  
AULTON D. EDDINGS

\_\_\_\_\_  
GARY FENNER

c:\client\relzoning\johnson\ord

\_\_\_\_\_  
KEN ALEXANDER

  
\_\_\_\_\_  
WILLIAM VOYLES

ATTEST

  
\_\_\_\_\_  
LINDA SCHAFFER  
CLERK-TREASURER

ORDINANCE NO. 98-~~696~~

98-691

AN ORDINANCE AMENDING ORDINANCE NO. ~~95-615~~,  
REGARDING THE INDIANA MODEL ORDINANCE FOR FLOOD HAZARD AREAS

**WHEREAS**, the Town Council for the Town of Sellersburg, Indiana, did on the 13th day of February, 1995, adopt Ordinance No. 95-615, regarding the Indiana Model Ordinance for Flood Hazard Areas; and

**WHEREAS**, the Town Council for the Town of Sellersburg has been informed by the Indiana Department of Natural Resources that said Ordinance No. 95-615 contains various information which must be corrected; and

**WHEREAS**, the Town Council for the Town of Sellersburg, Indiana, has determined in an open meeting in which the public was allowed to participate, that Ordinance No. 95-615 should be amended to reflect the changes requested by the Indiana Department of Natural Resources.

Be it ordained by the Town Board of the Town of Sellersburg, Indiana as follows:

**SECTION 1. STATUTORY AUTHORIZATION.** The Indiana Legislature granted the power to local units of government (I.C. 36-7-4) to control land use within their jurisdictions in order to accomplish the following.

**SECTION 2. STATEMENT OF PURPOSE.** The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Sellersburg Town Board of Trustees hereby adopts the following floodplain management regulations in order to accomplish the following:

- a. To prevent unwise developments from increasing flood or drainage hazards to others;
- b. To protect new building and major improvements to buildings from flood damage;
- c. To protect human life and health from the hazards of flooding;
- d. To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- e. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

- f. To make federally subsidized flood insurance available for property in the Town of Sellersburg by fulfilling the requirements of the National Flood Insurance Program.

SECTION 3. DEFINITIONS. For the purpose of this ordinance, the following definitions are adopted:

- a. Building - see "structure".
- b. Development - any man-made change to improved or unimproved real estate including, but not limited to:
1. Construction, reconstruction, or placement of a building or any addition to a building;
  2. Installing a manufactured home on a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
  3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
  4. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
  5. Mining, dredging, filling, grading, excavation, or drilling operations;
  6. Construction and/or reconstruction of bridges or culverts;
  7. Storage of materials; or
  8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

- c. Existing manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is



- completed before the effective date of the floodplain management regulations adopted by a community.
- d. Expansion to an existing manufactured home park or subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
  - e. FHBM - means Flood Hazard Boundary Map.
  - f. FIRM - means Flood Insurance Rate Map.
  - g. FBFM - Flood Boundary and Floodway Map.
  - h. FEMA - Federal Emergency Management Agency.
  - i. Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
  - j. Floodplain - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
  - k. Flood Protection Grade or the "FPG" - means the elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).
  - l. Floodway - means the channel of a river or stream and those portions of the floodplains adjoining the channels which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
  - m. Floodway Fringe - means those portions of the flood hazard areas lying outside the floodway.
  - n. Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.
  - o. Letter of Map Revision (LOMR) - An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
  - p. Lowest Floor - means the lowest of the following:

1. The top of the basement floor;
  2. The top of the garage floor, if the garage is the lowest level of the building;
  3. The top of the first floor of building elevated on pilings or constructed on a crawl space with permanent openings; or
  4. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
    - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of such openings shall be no higher than one (1) foot above grade.
    - (b) Such enclosed space shall be usable for the parking of vehicles and building access.
- q. **Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- r. **New manufactured home park or subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- s. **Recreation Vehicle** - means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.
- t. **Regulatory Flood** - means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is as defined in Section 5 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood".

- u. SFHA or Special Flood Hazard Area - means those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the Flood Insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated August 1, 1980. The SFHAs of those parts of unincorporated Clark County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for Clark County by the Federal Emergency Management Agency and dated February 18, 1983.
- v. Structure - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.
- w. Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

SECTION 4. DUTIES OF THE ADMINISTRATOR. The Building Inspector for the Town of Sellersburg shall implement this ordinance and hereafter be referred to as the Zoning Administrator. The Zoning Administrator for the Town of Sellersburg is appointed to review all development and subdivision proposals to insure compliance with this ordinance, including but not limited to the following duties:

- a. Ensure that all development activities within the SFHAs of the jurisdiction of the Town meet the requirements of this ordinance.
- b. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- c. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 7 of this ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

- d. Maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.
- e. Maintain a record of the engineer's certificate and the "as-built" floodproofed elevation of all buildings subject to Section 8 of this ordinance.
- f. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- g. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, "as-built" elevation and floodproofing data, and all buildings constructed subject to this ordinance.
- h. Notify adjacent communities and State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

SECTION 5. REGULATORY FLOOD ELEVATION. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- a. The regulatory flood elevation and floodway limits for the SFHAs of Muddy Fork Creek and Silver Creek shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the Town dated February, 1980, and corresponding FIRM dated August 1, 1980, prepared by the Federal Emergency Management Agency.
- b. The regulatory flood elevation for each SFHAs delineated as an "AH Zone" or an "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Town.
- c. The regulatory flood elevation for each of the remaining SFHAs delineated as an "A Zone" in the Flood Insurance Rate Map of the Town shall be according to the best data available as provided by the Department of Natural Resources.
- d. The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Clark County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town shall be delineated on the 100 year flood profiles in the Flood Insurance Study of Clark County prepared by the Federal Emergency Management Agency and dated March, 1980, and the corresponding FBFM dated September 30, 1980, prepared by FEMA.

- e. If the SFHA is delineated as an "AH Zone or AO Zone", the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources.

**SECTION 6. IMPROVEMENT LOCATION PERMIT.** No person, firm, corporation, or governmental body not exempted by state law shall commence any "Development" in the SFHA without first obtaining an Improvement Location Permit from the Town Zoning Board. The Zoning Board shall not issue an Improvement Location Permit if the proposed "Development" does not meet the requirements of this ordinance.

- a. The application for an Improvement Location Permit shall be accompanied by the following:
  - 1. A description of the proposed development.
  - 2. Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams.
  - 3. A legal description of the property site.
  - 4. A site development plan showing existing and proposed structure locations and existing and proposed land grades.
  - 5. Elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).
- b. Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.
  - 1. If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 14-28-1, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 7 and 8 of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

2. If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in Section 7 and 8 of this ordinance have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.
3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the Building Official shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from Natural Resources and the provisions contained in Section 7 and 8 of this ordinance have been met.

4. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year flood elevation of the site. Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Section 7 and 8 of this ordinance have been met.

**SECTION 7. PREVENTING INCREASED DAMAGES.** No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- a. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, or engineering analysis as provided in Section 6.6.4., the following standards shall apply:
  1. No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
  2. For all projects involving channel modifications or fill (including levees), the Town shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.
- b. Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard shall apply:
  1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- c. Public Health Standards in all SFHAs:
  1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in floodproofed tanks or floodproofed buildings constructed according to the requirements of Section 8 of this ordinance.
  2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted provided all manholes or other above ground openings located below the FPG are watertight.

**SECTION 8. PROTECTING BUILDINGS.** In addition to the damage prevention requirements of Section 7, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- a. This building protection requirement applies to the following situations:
  1. Construction or placement of any new building having a floor area greater than 400 square feet.

2. Structural alterations made to:
    - a. An existing (previously unaltered) building, the cost of which equals or exceeds 50% of the value of the pre-altered building (excluding the value of the land);
    - b. Any previously altered building.
  3. Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred.
  4. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site is lawfully occupied before it was removed to avoid flood damage; and
  5. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- b. This building protection requirement may be met by one of the following methods. The Building Official shall maintain a record of compliance with these building protection standards as required in Section 4 of this ordinance.
1. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
    - (a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
    - (b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
    - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
    - (d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
    - (e) The top of the lowest floor (see definition of lowest floor in Section 3. Definitions) shall be at or above the FPG.



2. A residential or nonresidential building may be elevated in accordance with the following:
  - (a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundations provided:
    - (1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
    - (2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
  - (b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as currents, waves, ice, and floating debris.
  - (c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
3. Manufactured homes and travel trailers (also called recreational vehicles) to be installed substantially improved on site for more than 180 days must meet one of the following anchoring requirements:
  - (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
    - (1) Outside a manufactured home park or subdivision;
    - (2) In a new manufactured home park or subdivision;

- (3) In an expansion to an existing manufactured home park or subdivision; or
  - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
- (b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

4. Recreation vehicles placed on a site shall either:
- (a) Be on the site for less than 180 consecutive days;
  - (b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  - (c) Meet the requirements for “manufactured homes” in Paragraph 3 of this section.
5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
- (a) A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
  - (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

## SECTION 9. OTHER DEVELOPMENT REQUIREMENTS.

- a. The Planning Commission shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the (review agency or official) finds the subdivision to be so located, the (review agency or individual) shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The (review agency or individual) shall require appropriate changes and modifications in order to assure that:
  1. It is consistent with the need to minimize flood damages;
  2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  3. Adequate drainage is provided so as to reduce exposure to flood hazards;
  4. On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- b. Developers shall record the 100 year flood elevation on all subdivision plats containing lands identified elsewhere by ordinance as within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- c. All owners of manufactured home parks or subdivisions located within the SFHA, identified as Zone A on the community's FHMB or FIRM, develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

#### SECTION 10. VARIANCES

- a. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:
  1. There exists a good and sufficient cause for the requested variance;
  2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant; and
  3. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- b. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:
1. No variance or exception for a residential use within a floodway subject to Section 7 (a) or (b) may be granted;
  2. Any variance or exception granted in a floodway subject to Section 7 (a) or (b) will require a permit from Natural Resources;
  3. Variances or exceptions to the Building Protection Standards of Section 8 may be granted only when a new structure is to be located on a lot of one-half acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade;
  4. Variances or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
  5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction;
  6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

**SECTION 11. DISCLAIMER OF LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**SECTION 12. VIOLATIONS.** Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Sellersburg. All violations shall be punishable by a fine not exceeding \$ 250.00 .

- a. A separate offense shall be deemed to occur for each day the violation continues to exist.

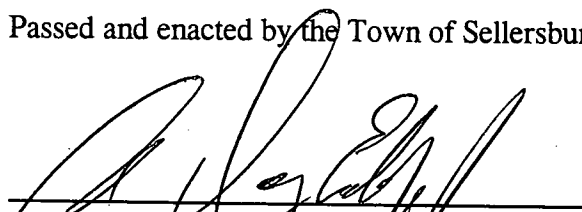
- b. The Sellersburg Zoning and Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- c. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

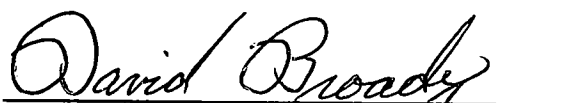
SECTION 13. ABROGATION AND GREATER RESTRICTIONS. This ordinance repeals and replaces other ordinances adopted by the Town Council to fulfill the requirements of the National Flood Insurance Program, including Ordinance F-1983-1. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the (City Council/Town Board/County Commissioners) shall assure that all National Flood Insurance Program regulations and laws (310 IAC 6-1-1, IC 14-28-1 and 14-23-3) are met.

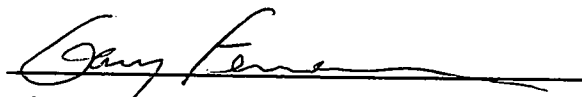
SECTION 14. SEPARABILITY. The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.


SECTION 15. EFFECTIVE DATE. This ordinance shall take effect upon its passage by the Town Council.

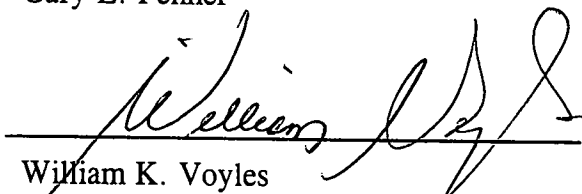
Passed and enacted by the Town of Sellersburg, Indiana, on the 10 day of August, 1998.

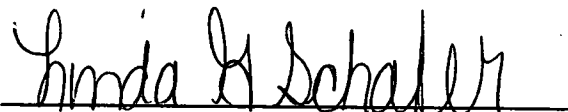
  
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 A. Douglas Eddings, Jr. - President

  
 \_\_\_\_\_  
 David Broady, Vice-President

  
 \_\_\_\_\_  
 Gary E. Fenner

  
 \_\_\_\_\_  
 Kenneth J. Alexander

  
 \_\_\_\_\_  
 William K. Voyles

  
 \_\_\_\_\_  
 Linda Schaefer, Clerk-Treasurer

98-697

ORDINANCE FOR APPROPRIATIONS AND TAX RATES

Be it Ordained by the ~~County, City or~~ Town of SELLERSBURG, Indiana: That for the expenses of the ~~County, City or~~ Town government and its institutions for the year ending December 31, 1999, the sums of money shown on Budget Form 4-A are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year, unless otherwise expressly stipulated and provided for by law. In addition for the purpose of raising revenue to meet the necessary expense of county, city or town government, tax rates are shown on Budget Form 4-B and included herein. Two (2) copies of Budget Forms 4-A and 4-B for all funds and departments are made a part of the budget report and submitted herewith.

APPROVED BY:

COUNTY COUNCIL

Presented to the County Council of \_\_\_\_\_ County, Indiana, and read in full for the first time this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
President County Council

Attest:

\_\_\_\_\_  
County Auditor and/or Clerk of County Council

Presented to the County Council of \_\_\_\_\_ County, Indiana, and read in full for the second time, and adopted, this \_\_\_\_\_, 19\_\_\_\_, by the following vote:

Yea

Nay

\_\_\_\_\_  
Council Member

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Council Member

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Council Member

Attest:

\_\_\_\_\_  
County Auditor and/or Clerk of County Council

COMMON COUNCIL

This ordinance shall be in full force and effect from and after its passage and approval by the Common Council and Mayor. Adopted by the following vote on \_\_\_\_\_, 19\_\_\_\_.

Yea

Nay

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Council Member

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Council Member

Approved by the Mayor \_\_\_\_\_, 19\_\_\_\_.

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk or Clerk-Treasurer

TOWN COUNCIL

This ordinance shall be in full force and effect from and after its passage and approval by the Town Council. Adopted with the following vote on AUGUST 24, 1998.

Yea

Nay

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Council Member

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Council Member

Attest:

\_\_\_\_\_  
Town Clerk-Treasurer

98-698

ORDINANCE FOR APPROPRIATIONS AND TAX RATES

Be it Ordained by the ~~COUNTY COUNCIL~~ Town of SELLERSBURG, Indiana: That for the expenses of the ~~COUNTY COUNCIL~~ Town government and its institutions for the year ending December 31, 1999, the sums of money shown on Budget Form 4-A are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year, unless otherwise expressly stipulated and provided for by law. In addition for the purpose of raising revenue to meet the necessary expense of county, city or town government, tax rates are shown on Budget Form 4-B and included herein. Two (2) copies of Budget Forms 4-A and 4-B for all funds and departments are made a part of the budget report and submitted herewith.

APPROVED BY:

COUNTY COUNCIL

COMMON COUNCIL

TOWN COUNCIL

Presented to the County Council of \_\_\_\_\_ County, Indiana, and read in full for the first time this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

This ordinance shall be in full force and effect from and after its passage and approval by the Common Council and Mayor. Adopted by the following vote on \_\_\_\_\_, 19\_\_\_\_.

This ordinance shall be in full force and effect from and after its passage and approval by the Town Council. Adopted with the following vote on AUGUST 24TH, 1998.

Attest:

\_\_\_\_\_  
President County Council

Yea

Nay

Yea

Nay

\_\_\_\_\_  
County Auditor and/or Clerk of County Council

\_\_\_\_\_  
Council Member

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Council Member



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Council Member

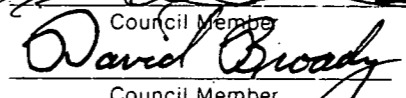
Presented to the County Council of \_\_\_\_\_ County, Indiana, and read in full for the second time, and adopted, this \_\_\_\_\_, 19\_\_\_\_, by the following vote:

Yea

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Council Member

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Council Member



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Council Member

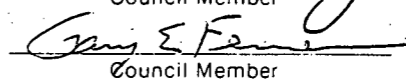
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Council Member

Attest:

\_\_\_\_\_  
County Auditor and/or Clerk of County Council

Approved by the Mayor \_\_\_\_\_, 19\_\_\_\_.

Attest:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Town Clerk-Treasurer

\_\_\_\_\_  
City Clerk or Clerk-Treasurer

ORDINANCE NO. 98- 699

AN ORDINANCE AUTHORIZING ZONING CHANGE WITHIN THE  
TOWN OF SELLERSBURG, INDIANA

WHEREAS, the Town of Sellersburg Plan Commission has received a Petition requesting a change of zoning for a certain parcel of real property commonly known as the SWD, Inc., property located within the Town of Sellersburg, Indiana, which is more accurately identified and described by Exhibit A, attached hereto, and incorporated by reference herein; and,

WHEREAS, the Town of Sellersburg Plan Commission has reviewed the Petition requesting a change of zoning; and,

WHEREAS, the Town of Sellersburg Plan Commission determined that the Petition requesting a change of zoning complied with the requirements of Section 3.4.4 of the Zoning Ordinances of the Town of Sellersburg; and,

WHEREAS, the Town of Sellersburg Plan Commission has approved zoning change and recommended to the Sellersburg Town Council that said Petition for zoning change be approved; and,

WHEREAS, the Sellersburg Town Council has applied the standards and requirements as set out in Section 3.4.4(5) and has determined the requests for zoning change meets these standards and requirements; and,

WHEREAS, the Sellersburg Town Council has determined that the herein Ordinance will provide for the effective administration of Town Government; and,

WHEREAS, this matter was considered at a public meeting at which the public were invited to attend and participate.

IT IS, THEREFORE, NOW ORDAINED BY THE SELLERSBURG TOWN COUNCIL AS FOLLOWS:

THAT A CERTAIN PARCEL OF REAL PROPERTY COMMONLY KNOWN AS THE SWD, INC., PROPERTY AND WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

TRACT I:

A part of Survey No. 88 of the Illinois Grant, bounded as follows: Beginning at a point in the center line of State Highway No. 31-W, 759.245 feet Southwest from an iron pin in the center line of said Highway 31-W, said iron pin being South 54 deg. and 22' West 2350.92 feet from the North line of Survey 88 Illinois Grant; running thence at right angles to the center line of State Highway 31-W, North 64 deg. 50' West 435.6 feet, more or less, to the North line of W. D. Straw's land; thence



North 54 deg. 22' East along the North line of W. Straw's land 123 feet, more or less, to a stake; thence South 64 deg. 50' East, 364.6 feet, more or less, to the center line of said highway 31-W; thence South 25 deg. 10' West 100' feet to the place of beginning, containing .92 acres, more or less.

Local address of property is: 7409 Highway 31W, Sellersburg, Indiana 47172.

TRACT II:

A part of Survey No. 88, Illinois Grant, Clark County, Indiana, bounded as follows: Beginning at a point in the center line of State Highway No. 31-W, 659.245 feet Southwest of an iron pin in the center line of State Highway No. 31-W, said iron pin being South 54 deg. and 22 seconds West 2350.92 feet from the North line of Survey 88, Illinois Grant; running thence North 64 deg. 50' West 364.6 feet, more or less, to the North line of W.D. Straw's land; thence North 54 deg. 22' East along the North line of W.D. Straw's land, 115.2 feet, more or less, to a stake; thence S. 64 deg. 50' E. 308.5 feet, more or less, to the center line of the State Highway No. 31-W; thence S. 25 deg. 10' W. 100 feet to the Place of Beginning, containing .77 acres, more or less.

Local address of property is: 7411 State Road 311, Sellersburg, Indiana 47172.

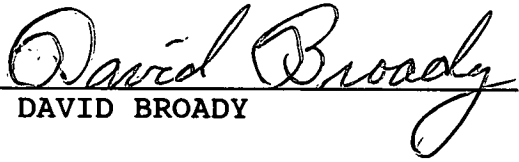
TRACT III:

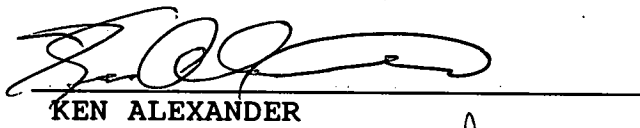
A part of Survey No. 88 of the Illinois Grant in Clark County, Indiana, bounded as follows: Beginning at a point in the center line of State Highway 31W, 459.245 feet southwest from an iron pin in the center line of State Highway 31W, said iron pin being S. 54 degrees 22 minutes W. 2350.92 feet from the north line of Survey No. 88 of the Illinois Grant; thence N. 64 degrees 50 minutes W. 252.4 feet more or less to the north line of W.D. Straw's land; thence N. 54 degrees 22 minutes E. along the north line of W.D. Straw's land to a stake; thence S. 64 degrees 50 minutes E. 196.3 feet more or less to the center line of State Highway 31W; thence S. 25 degrees 10 minutes W. 100 feet to the place of beginning, containing fifty-one hundredths (.51) of an acre, more or less.

Local address of property is: 7419 State Road 311, Sellersburg, Indiana 47172.

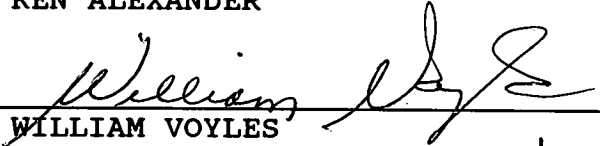
SHALL NOW BE REZONED AND THE CURRENT ZONING OF R-1 OF THE DESCRIBED AREA SHALL BE CHANGED TO B-3 GENERAL BUSINESS.

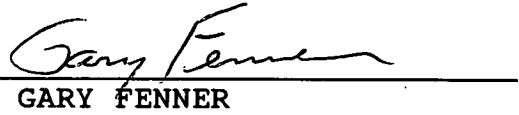
DATED: September 14, 1998.

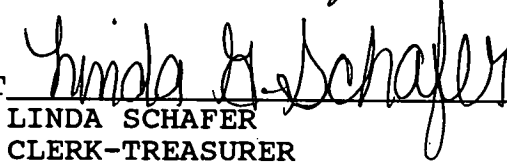
  
DAVID BROADY

  
KEN ALEXANDER

AULTON D. EDDINGS

  
WILLIAM VOYLES

  
GARY FENNER

ATTEST   
LINDA SCHAFER  
CLERK-TREASURER

c:\client\re\zoning\swd\ord

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

19191

RECEIVED  
FOR RECORD

AUG 31 1999

AUG 31 3 58 PM '99  
RECORDED IN *Old* DRA 31  
INSTR NO. 19191  
SHIRLEY NOLOT  
RECORDER OF CLARK CO.

*Shirley* ORDINANCE NO. 98-700  
AUDITOR CLARK COUNTY AN ORDINANCE FOR ANNEXATION

BE IT ORDAINED by the Town Council of the Town of Sellersburg, Clark County, Indiana, under the authority of Indiana Code, as amended, that the real estate described herein shall be annexed into the Town of Sellersburg.

WHEREAS, on the 12th day of October, 1998, Everett Sprigler petitioned the Town Board of Sellersburg, Indiana, for the annexation of a 7.60 acre tract of real estate, hereinafter described, equitably owned by said Petitioner, which is adjacent to the corporate limits of the Town of Sellersburg, Indiana, as per Exhibit "A" attached hereto; and

WHEREAS, the Town Board has determined that a Fiscal Plan for annexation of said tract of real estate is not necessary; and

WHEREAS, said Petition has been duly considered by the Town Board which has determined that it is in the best interest of the Town of Sellersburg and the citizens thereof that the prayer of said Petition filed be granted.

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

Section 1. The following described real estate, containing 7.60 acres, more or less, be, and the same hereby is, annexed to and made a part of the Town of Sellersburg, Indiana, to-wit:

THE FOLLOWING IS A LEGAL DESCRIPTION PREPARED THIS 14TH DAY OF SEPTEMBER, 1998, OF REAL PROPERTY BEING A PART OF ILLINOIS GRANT #89, SILVER CREEK TOWNSHIP, CLARK COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

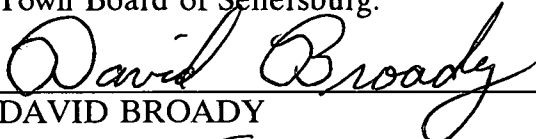
COMMENCING AT A STONE MARKING THE EASTERN CORNER OF GRANT #88 AND THE WEST LINE OF GRANT #89, THENCE NORTH 34 DEG. 22 MIN. 35 SEC. WEST ALONG THE LINE DIVIDING GRANTS #88 AND #89, A DISTANCE OF 1194.97 FEET TO A STONE, THENCE LEAVING THE GRANT LINE NORTH 54 DEG. 52 MIN. 56 SEC. EAST A DISTANCE OF 1608.06 FEET TO AN IRON PIN, SAID POINT BEING THE TRUE PLACE OF BEGINNING OF THE TRACT HEREIN DESCRIBED, THENCE CONTINUING NORTH 54 DEG. 52 MIN. 56 SEC. EAST 471.71 FEET TO A STONE, THENCE SOUTH 34 DEG. 57 MIN. 24 SEC. EAST 663.48 FEET,

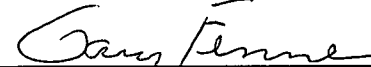
THENCE SOUTH 55 DEG. 50 MIN. 44 SEC. WEST 532.83 FEET,  
THENCE NORTH 29 DEG. 37 MIN. 38 SEC. WEST 657.54 FEET, TO  
THE POINT OF BEGINNING CONTAINING 7.60 ACRES, MORE OR  
LESS.


Section 2. This Ordinance shall be in full force and effect from and after its  
passage and approval by the Town Board of Sellersburg, Indiana, and the due  
publication thereof as required by Statute.

PASSED by the Town of Sellersburg, Indiana, this 12th day of October, 1998.

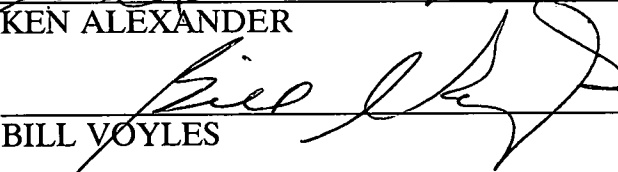
Town Board of Sellersburg:

  
\_\_\_\_\_  
DAVID BROADY

  
\_\_\_\_\_  
GARY FENNER

  
\_\_\_\_\_  
AULTON, D. EDDINGS

  
\_\_\_\_\_  
KEN ALEXANDER

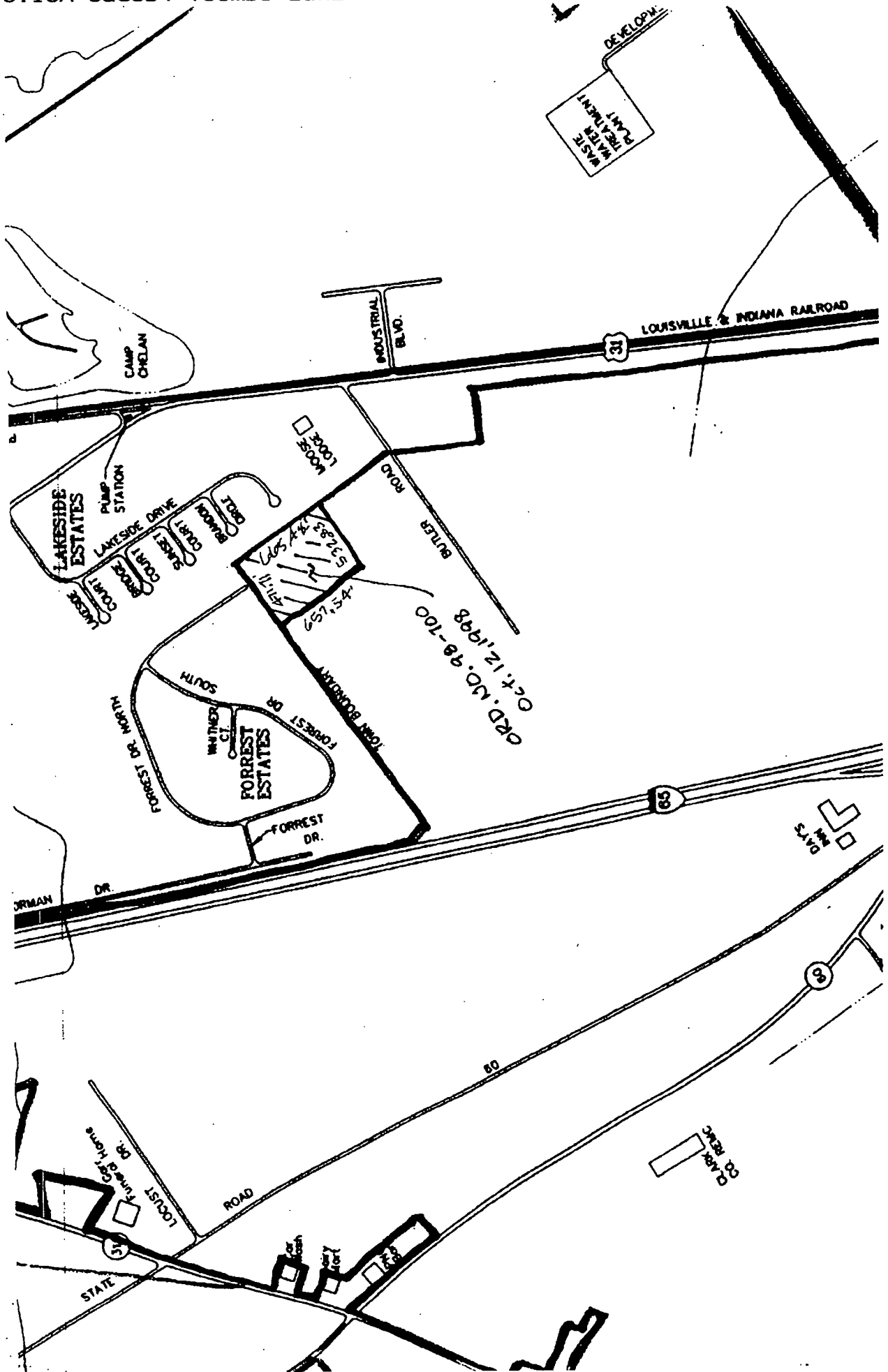
  
\_\_\_\_\_  
BILL VOYLES

ATTEST:

  
\_\_\_\_\_  
LINDA SCHAFFER, Clerk-Treasurer

js37/sprigler.doc

Prepared By:  
William P. McCall III



AN ORDINANCE PROVIDING FOR THE TRANSFER OF APPROPRIATIONS FOR THE TOWN OF SELLERSBURG, INDIANA, FOR THE YEAR 1998, AS REQUESTED BY THE CLERK TREASURER AND FORWARDED TO THE TOWN COUNCIL FOR THEIR ACTION AND PASSAGE PURSUANT TO IC 6-1.1-18-6.

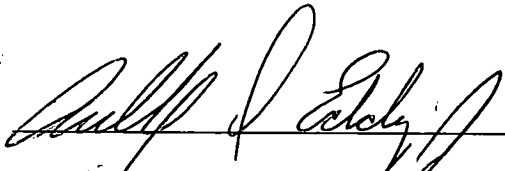
WHEREAS, certain extraordinary conditions have developed since the adoption of the existing annual budget for the year of 1998 and it is now necessary to transfer appropriations into different categories than was appropriated in the annual budget for the various functions of the several departments to meet the emergencies.

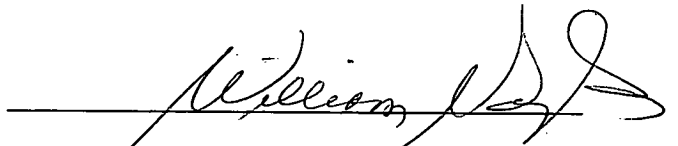
SECTION 1. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SELLERSBURG, INDIANA, that for the expenses of the Town Government, the following appropriations are transferred unless otherwise stipulated by law.

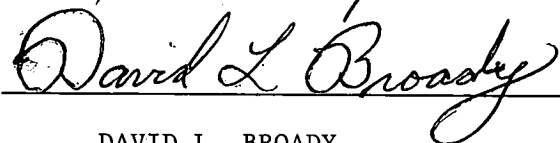
SECTION 2. Where it has been shown that certain existing appropriations have unobligated balances which will be available for transferring as follows:

<u>ACCT.#, NAME &amp; AMOUNT</u>		<u>TO ACCT.#, NAME, &amp; AMOUNT</u>	
	<u>PARKS</u>		<u>PARKS</u>
227- CONCESSION	2300.	362- REPAIRS & MAINT.	2300.
227- CONCESSION	1000.	394- MISC. SERVICES & CHARGES	1000.
357- WATER	2500.	362- REPAIRS & MAINT.	2500.

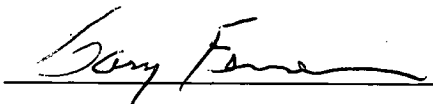
SO ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1998.

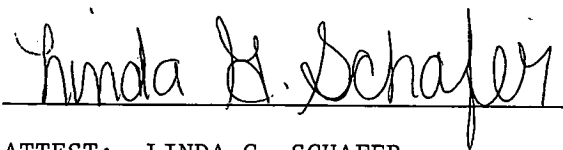
  
\_\_\_\_\_  
AILTON D. EDDINGS JR.

  
\_\_\_\_\_  
WILLIAM K. VOYLES

  
\_\_\_\_\_  
DAVID L. BROADY

  
\_\_\_\_\_  
KENNETH ALEXANDER

  
\_\_\_\_\_  
GARY FENNER

  
\_\_\_\_\_  
ATTEST: LINDA G. SCHAFFER  
CLERK TREASURER

ORDINANCE NO. 98- 702

AN ORDINANCE FOR THE TRANSFER OF APPROPRIATIONS REGARDING THE  
TOWN OF SELLERSBURG POLICE DEPARTMENT

WHEREAS, the Town of Sellersburg Chief of Police has determined there exists a need to transfer appropriations to continue efficient and effective law enforcement within the Town of Sellersburg; and

WHEREAS, the Town Council for the Town of Sellersburg has determined that the requested transfer of appropriations is necessary for continued efficient and effective law enforcement within the Town of Sellersburg; and

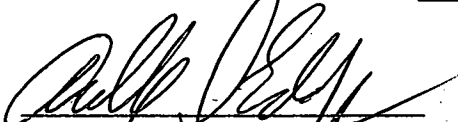
WHEREAS, this matter was considered in an open public meeting at which the public were invited to attend and participate.

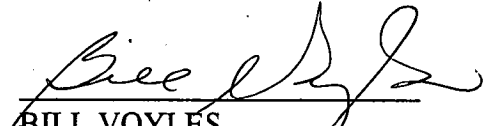
BE IT NOW THEREFORE ORDAINED AS FOLLOWS:

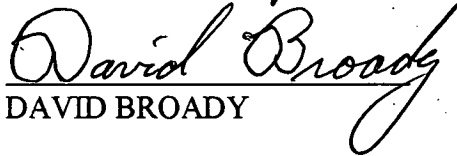
- 1.) A transfer of appropriations in the amount of Four Hundred Twenty (\$420.00) dollars from Account #133, Off Duty Court Pay to Account #223, Police Equipment.
- 2.) A transfer of appropriations in the amount of Three Thousand Three Hundred Fifty Seven (\$3,357.00) dollars from Account #225, Police Gasoline to Account #213, Office Supplies.
- 3.) A transfer of appropriations in the amount of Three Hundred Eighty-Nine (\$389.00) dollars from Account #314, Consulting Fees to Account #223, Police Equipment.
- 4.) A transfer of appropriations in the amount of One Thousand Three Hundred Eighty (\$1,380.00) dollars from Account #323, Telephone/Pagers to Account #223, Police Equipment.
- 5.) A transfer of appropriations in the amount of Four Hundred (\$400.00) dollars from Account #321, Postage to Account #223, Police Equipment.
- 6.) A transfer of appropriations in the amount of Two Thousand Three Hundred (\$2,300.00) dollars from Account #354, Heat & Gas to Account #223, Police Equipment.
- 7.) A transfer of appropriations in the amount of Three Hundred Twenty (\$320.00) dollars from Account #355, Water to Account #223, Police Equipment.

- 8.) A transfer of appropriations in the amount of Four Hundred Fifty-Four (\$454.00) dollars from Account #394, Miscellaneous Services to Account #223, Police Equipment.

SO ORDAINED THIS \_\_\_\_\_ DAY OF NOVEMBER, 1998.

  
AULTON D. EDDINGS

  
BILL VOYLES

  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

ATTEST: \_\_\_\_\_  
LINDA SCHAFFER  
CLERK/TREASURER

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



ORDINANCE NO. 98- 703

**ORDINANCE AMENDING ORDINANCE NO. 92-537  
ESTABLISHING A UTILITY CASH RESERVE FUND**

WHEREAS, the Town Council for the Town of Sellersburg did on the 24th day of August, 1992, pass Ordinance No. 92-537 thereby establishing a Utility Cash Reserve Fund; and

WHEREAS, the Town Council for the Town of Sellersburg established a Utility Cash Reserve Fund pursuant to construction and the operation of its new Water Treatment Plant; and

WHEREAS, the residents of the Town of Sellersburg, Indiana, continue to pay a tap in fee for the use of said Waste Water Treatment Plant; and

WHEREAS, the money which is generated from payment of said tap in fees is surplus earnings of the Utility; and

WHEREAS, the Town Council for the Town of Sellersburg, Indiana, has determined that for the efficient administration of Town Government that it is necessary to establish a Utility Cash Reserve Fund in which said surplus funds shall be carried; and

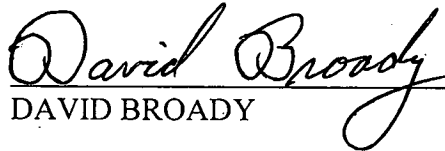
WHEREAS, the Town Council for the Town of Sellersburg, Indiana, has determined to establish said Utility Cash Reserve Fund under the provisions of I.C. 8-1.5-3-11; and

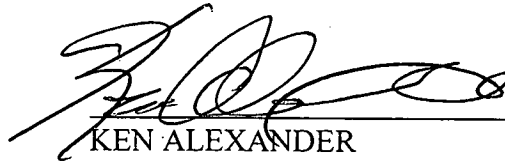
WHEREAS, the Town Council for the Town of Sellersburg, Indiana, has determined the Utility Cash Reserve Fund shall be maintained out of which funds may be transferred from time to time to other funds or accounts maintained by the Town as deemed necessary by the Town Council for the Town of Sellersburg, Indiana; and

WHEREAS, the Town Council for the Town of Sellersburg, Indiana, has in an open meeting discussed, considered and determined the issue;

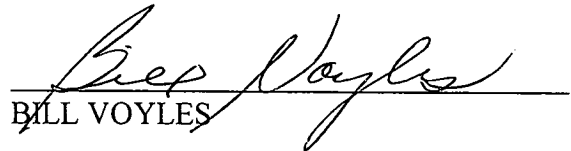
BE IT THEREFORE ORDAINED by the Town Council for the Town of Sellersburg, Indiana, that a Utility Cash Reserve Fund shall be and hereby is created for the purpose of depositing all surplus earnings of the Utility.

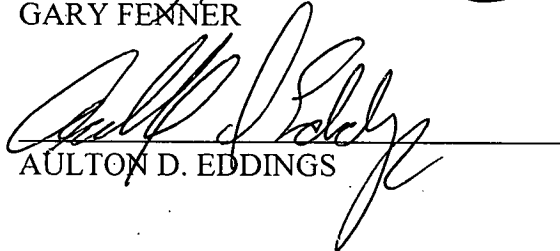
SO ORDAINED THIS 23<sup>RD</sup> DAY OF November, 1998.

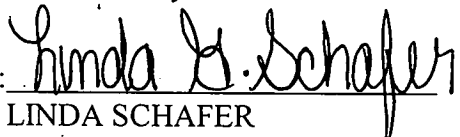
  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

  
BILL VOYLES

  
AULTON D. EDDINGS

ATTEST:   
LINDA SCHAFFER  
CLERK-TREASURER

**ORDINANCE NO. 98-704**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF  
SELLERSBURG, INDIANA**

WHEREAS, an application was properly filed with the Town of Sellersburg by Everett Sprigler for the rezoning of certain real estate located in the County of Clark, Town of Sellersburg, as the legal description which is specifically described as follows, to-wit:

THE FOLLOWING IS A LEGAL DESCRIPTION PREPARED THIS 14TH DAY OF SEPTEMBER, 1998, OF REAL PROPERTY BEING A PART OF ILLINOIS GRANT #89, SILVER CREEK TOWNSHIP, CLARK COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE MARKING THE EASTERN CORNER OF GRANT #88 AND THE WEST LINE OF GRANT #89, THENCE NORTH 34 DEG. 22 MIN. 35 SEC. WEST ALONG THE LINE DIVIDING GRANTS #88 AND #89, A DISTANCE OF 1194.97 FEET TO A STONE, THENCE LEAVING THE GRANT LINE NORTH 54 DEG. 52 MIN. 56 SEC. EAST A DISTANCE OF 1608.06 FEET TO AN IRON PIN, SAID POINT BEING THE TRUE PLACE OF BEGINNING OF THE TRACT HEREIN DESCRIBED, THENCE CONTINUING NORTH 54 DEG. 52 MIN. 56 SEC. EAST 471.71 FEET TO A STONE, THENCE SOUTH 34 DEG. 57 MIN. 24 SEC. EAST 663.48 FEET, THENCE SOUTH 55 DEG. 50 MIN. 44 SEC. WEST 532.83 FEET, THENCE NORTH 29 DEG. 37 MIN. 38 SEC. WEST 657.54 FEET, TO THE POINT OF BEGINNING CONTAINING 7.60 ACRES, MORE OR LESS.

For the rezoning of the property to R1 (Residential); and

WHEREAS, the time and place of the meeting for the annexation was properly noticed and advertised for a meeting to take place on December 14, 1998 at 6:30 p.m. at the Town Offices of the Town of Sellersburg located at 316 E. Utica Street, Sellersburg, Indiana; and

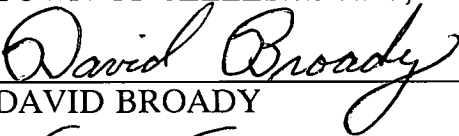
WHEREAS, the Town Council members present and voting on November 23, 1998 at the hour scheduled and notice to aforesaid meeting, voted unanimously to approve said rezoning application and to recommend the same be rezoned and the


zoning ordinance of the Town of Sellersburg, Indiana as now written, be amended to provide for said rezoning;

BE IT THEREFORE ORDAINED BY THE BOARD OF TRUSTEES BY THE TOWN OF SELLERSBURG, INDIANA, that the Zoning Ordinance of Sellersburg, Indiana, be, and hereby is, amended such that the zoning map of the Town of Sellersburg, hereafter indicate the real estate located as described above is hereby rezoned to R1 (Residential).

PASSED AND ADOPTED by the Board of Trustees of the Town of Sellersburg, Indiana, on the 14<sup>th</sup> day of December, 1998.

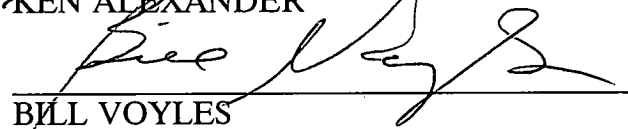
BOARD OF TRUSTEES  
TOWN OF SELLERSBURG, INDIANA

  
\_\_\_\_\_  
DAVID BROADY

  
\_\_\_\_\_  
GARY FENNER

  
\_\_\_\_\_  
AULTON D. EDDINGS

  
\_\_\_\_\_  
KEN ALEXANDER

  
\_\_\_\_\_  
BILL VOYLES

ATTEST:

  
\_\_\_\_\_  
LINDA SCHAFFER, Clerk-Treasurer

js40/SPRIGLER.SON

AN ORDINANCE PROVIDING FOR THE TRANSFER OF APPROPRIATIONS FOR THE TOWN OF SELLERSBURG, INDIANA, FOR THE YEAR 1998, AS REQUESTED BY THE CLERK TREASURER AND FORWARDED TO THE TOWN COUNCIL FOR THEIR ACTION AND PASSAGE PURSUANT TO IC 6-1.1-18-6.

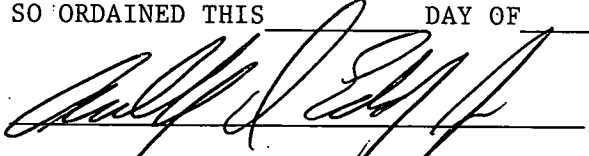
WHEREAS, certain extraordinary conditions have developed since the adoption of the existing annual budget for the year of 1998 and it is now necessary to transfer appropriations into different categories than was appropriated in the annual budget for the various functions of the several departments to meet the emergencies.

SECTION 1. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SELLERSBURG, INDIANA that for the expenses of the Town Government, the following appropriations are transferred unless otherwise stipulated by law.

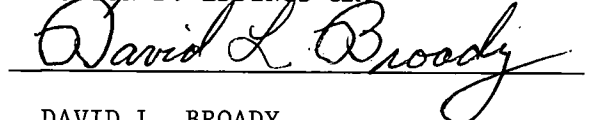
SECTION 2. Where it has been shown that certain existing appropriations have unobligated balances which will be available for transferring as follows:

<u>ACCT.#, NAME &amp; AMOUNT</u>		<u>TO ACCT.#, NAME, &amp; AMOUNT</u>	
<u>CLERK TREASURER</u>		<u>CLERK TREASURER</u>	
323-TELEPHONE/PAGERS	2500.00	441-OFFICE EQUIP.	2500.00
351-ELECTRIC	2500.00	441-OFFICE EQUIP.	2500.00
354-HEAT & GAS	1488.00	441-OFFICE EQUIP.	1488.00
<u>STREET &amp; SANIT.</u>		<u>STREET &amp; SANIT.</u>	
368-STREET CLEANING	500.00	224-TIRES & TUBES	500.00
<u>LRS</u>		<u>LRS</u>	
397-PAVING	1000.00	398-DRAINAGE	1000.00
401-LAND ACQUISITION	25000.00	398-DRAINAGE	25000.00
434-LOCAL RD. CONST.	8000.00	398-DRAINAGE	8000.00
441-STORAGE DOME/EQUIP.	50000.00	398-DRAINAGE	50000.00
<u>MVH</u>		<u>MVH</u>	
412-TRUCK	25000.00	397-PAVING & CULVERTS	25000.00
440-ST & SNOW EQUIP.	22679.00	397-PAVING & CULVERTS	22679.00

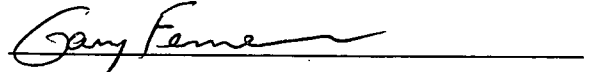
SO ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1998.



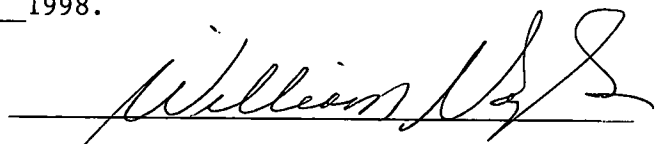
AULTON D. EDDINGS JR.



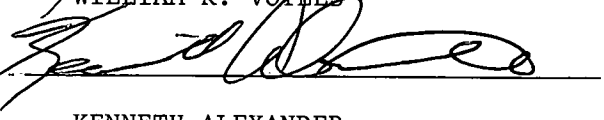
DAVID L. BROADY



GARY FENNER



WILLIAM K. VOYLES



KENNETH ALEXANDER

ATTEST: \_\_\_\_\_

LINDA G. SCHAFER  
CLERK TREASURER

ORDINANCE NO: 98- 706  
AN ORDINANCE AUTHORIZING ZONING CHANGE WITHIN THE  
TOWN OF SELLERSBURG, INDIANA

WHEREAS, the Town of Sellersburg Plan Commission has received a Petition requesting a change of zoning for a certain parcel of real property commonly known as the Keith E. Alexander property located within the Town of Sellersburg, Indiana, which is more accurately identified and described by Exhibit A, attached hereto, and incorporated by reference herein: and,

WHEREAS, the Town of Sellersburg Plan Commission has reviewed the Petition requesting a change of zoning; and,

WHEREAS, the Town of Sellersburg Plan Commission determined that the Petition requesting a change of zoning complied with the requirements of Section 3.4.4 of the Zoning Ordinances of the Town of Sellersburg; and,

WHEREAS, the Town of Sellersburg Plan Commission has approved zoning change and recommended to the Sellersburg Town Council that said Petition for zoning change be approved; and,

WHEREAS, the Sellersburg Town Council has applied the standards and requirements as set out in Section 3.4.4(6) and has determined the requests for zoning change meets these standards and requirements: and,

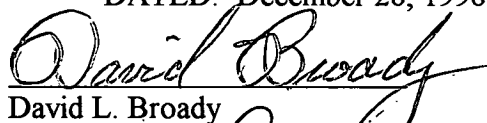
WHEREAS, the Sellersburg Town Council has determined that the herein Ordinance will provide for the effective administration of Town Government: and,

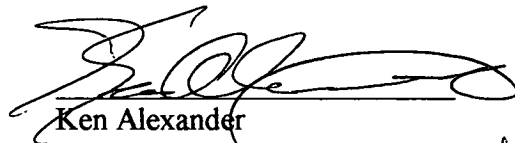
WHEREAS, this matter was considered at a public meeting at which the public were invited to attend and participate.

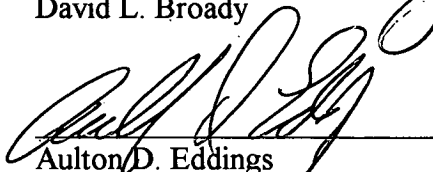
IT IS, THEREFORE, NOW ORDAINED BY THE SELLERSBURG TOWN COUNCIL AS FOLLOWS:

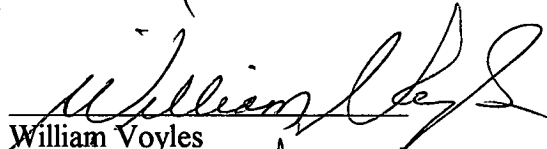
THAT A CERTAIN PARCEL OF REAL PROPERTY COMMONLY KNOWN AS THE KEITH E. ALEXANDER PROPERTY AND WHICH IS MORE PARTICULARLY DESCRIBED AND IDENTIFIED BY EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN SHALL NOW BE REZONED AND THE CURRENT ZONING OF R1 OF THE DESCRIBED AREA SHALL BE CHANGED TO R2 ZONING.

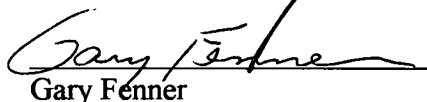
DATED: December 28, 1998

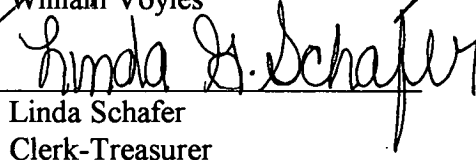
  
David L. Broady

  
Ken Alexander

  
Aulton D. Eddings

  
William Voyles

  
Gary Fenner

Attest   
Linda Schafer  
Clerk-Treasurer

ORDINANCE 98-707

AN ORDINANCE PROVIDING FOR THE TRANSFER OF APPROPRIATIONS FOR THE TOWN OF SELLERSBURG, INDIANA, FOR THE YEAR 1998, AS REQUESTED BY THE CLERK TREASURER AND FORWARDED TO THE TOWN COUNCIL FOR THEIR ACTION AND PASSAGE PURSUANT TO IC 6-1.1-18-6.

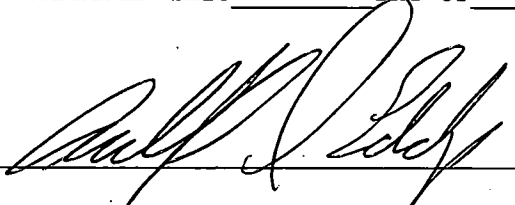
WHEREAS, certain extraordinary conditions have developed since the adoption of the existing annual budget for the year of 1998 and it is now necessary to transfer appropriations into a different categorie/s than was appropriated in the annual budget for the function of the Town Council.

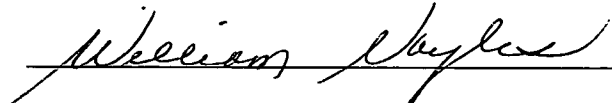
SECTION 1. BE IT ORDAINED BY THE TOWN COUNCIL FO THE TOWN OF SELLERSBURG, INDIANA that for the expenses of the Town Government, the following appropriations are transferred unless otherwise stipulated by law.

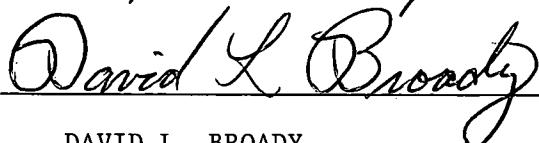
SECTION 2. Where it has been shown that certain existing appropriations have unobligated balances which will be available for transferring as follows:


<u>ACCT.#, NAME &amp; AMOUNT</u>		<u>TO ACCT.#, NAME, &amp; AMOUNT</u>	
112-TOWN MANAGER SAL.	11000.00	312-BLDG. INSPECTOR SERVICES	11000.00


SO ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1998.

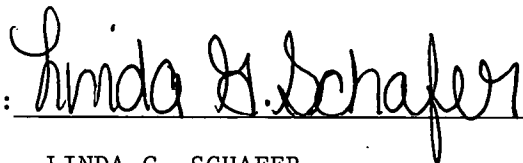
  
\_\_\_\_\_  
AULTON D. EDDINGS JR.

  
\_\_\_\_\_  
WILLIAM K. VOYLES

  
\_\_\_\_\_  
DAVID L. BROADY

  
\_\_\_\_\_  
KENNETH ALEXANDER

  
\_\_\_\_\_  
GARY FENNER

ATTEST:   
\_\_\_\_\_  
LINDA G. SCHAFER  
CLERK TREASURER

ORDINANCE NO. 98- 708

AN ORDINANCE FOR THE TRANSFER OF APPROPRIATIONS REGARDING THE TOWN OF SELLERSBURG POLICE DEPARTMENT

WHEREAS, the Town of Sellersburg Chief of Police has determined there exists a need to transfer appropriations to continue efficient and effective law enforcement within the Town of Sellersburg; and

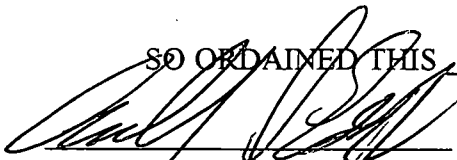
WHEREAS, the Town Council for the Town of Sellersburg has determined that the requested transfer of appropriations is necessary for continued efficient and effective law enforcement within the Town of Sellersburg; and

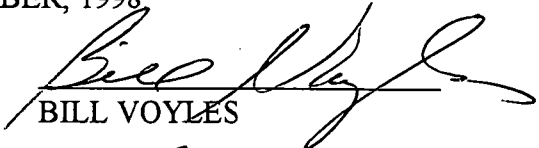
WHEREAS, this matter was considered in an open public meeting at which the public were invited to attend and participate.

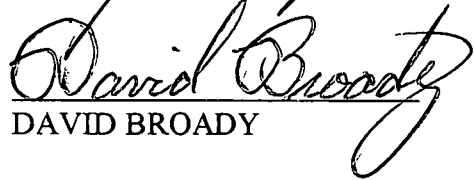
BE IT NOW THEREFORE ORDAINED AS FOLLOWS:

- 1.) A transfer of appropriations in the amount of One Thousand Six Hundred (\$1,600.00) dollars from Account #361, Cleaning Supplies/Services to Account #223, Police Equipment.
- 2.) A transfer of appropriations in the amount of Three Thousand (\$3,000.00) dollars from Account #363, Maintenance Police Vehicles to Account #223, Police Equipment.
- 3.) A transfer of appropriations in the amount of Two Hundred Fifty (\$250.00) dollars from Account #364, Repairs Police Building to Account #394, Miscellaneous Services.

SO ORDAINED THIS \_\_\_\_\_ DAY OF DECEMBER, 1998

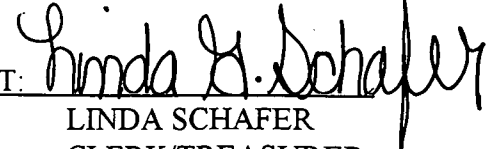
  
AULTON D. EDDINGS

  
BILL VOYLES

  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

ATTEST:   
LINDA SCHAFFER  
CLERK/TREASURER

DATE: 12-28-98



RESOLUTION NO. 98-46

FINAL RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF SELLERSBURG,  
INDIANA, DESIGNATING A CERTAIN AREA WITHIN THE TOWN  
OF SELLERSBURG AS AN ECONOMIC REVITALIZATION AREA  
FOR THE PURPOSES OF REAL AND PERSONAL PROPERTY TAX ABATEMENT

WHEREAS, a Petition to determine the following area to be an area desirable for an Economic Revitalization Area has been filed with the Clerk of the Town of Sellersburg, Indiana, for consideration by the Town Council for the Town of Sellersburg, Indiana, hereinafter called Town Council, said area is located in the Town of Sellersburg, and is more particularly described as follows:

(See attached Exhibit "A")

Along with a plat thereof (see attached "Exhibit B")

The foregoing area is eligible for designation as an economic revitalization area under provisions I.C. 6-1.1-12.1-1 et. seq.; and,

WHEREAS, the Town Council has concluded pursuant to an investigation and other information provided that the area qualifies as an economic revitalization area under I.C. 6-1.1-12.1-1 et. seq., and has further created a map and plat showing the boundaries and such other information regarding the area in question as required by law.

WHEREAS, the Town Council has determined that additional value will be added to the tax rolls by the redevelopment and rehabilitation that can be reasonably expected to occur by the projects that will result in the area so designated. Additionally, an increase in numbers of individuals will be employed or whose employment will be retained can reasonably be expected to result from the proposed described redevelopment or rehabilitation;

That additional annual salaries of those individuals or whose employment will be retained can reasonably expected to result from the proposed redevelopment or rehabilitation;

That the other benefits about which information was requested of benefits that can be reasonably be expected to result and proposed described redevelopment or rehabilitation; and

WHEREAS, the Town Council for the Town of Sellersburg, hereby finds that the area described is an economic revitalization area in accordance with I.C. 6-1.1-12.1-2.

WHEREAS, the totality of benefits is sufficient to justify the deductions, all of which satisfy the requirements of I.C. 6-1.1-12.1.3, and can be reasonably expected to result in the

rehabilitation of real property or the redevelopment thereof and the installation of new manufacturing equipment.

WHEREAS, the Town Council hereby determines and finds that the proposed redevelopment and rehabilitation of real estate and installation of new manufacturing equipment can be reasonably expected to yield benefits and is sufficient to justify the deductions granted and made available under I.C. 6-1.1-12.1-4.5 and I.C. 6-1.12.1-3 of the Indiana Code.

WHEREAS, the Town Council hereby designates the area heretofore set out, an economic revitalization area for the purposes of real and personal property tax abatement and hereby makes such a designation.

The Town Council hereby determines that the property owner who qualifies for and is granted property tax deductions will be for a period of five years for manufacturing equipment and ten years for real property.

WHEREAS, the Town Council for the Town of Sellersburg has in accordance with Indiana Law published a notice of public hearing, conducted a hearing to hear all remonstrances and objections from interested persons, and after considering the evidence hereby modifies and confirms the resolution as previously adopted on July 28, 1997, and as finally set out herein.

BE IT RESOLVED, by the Town Council as follows:

1. The Town Council hereby determines and finds that application/applications for real and personal property tax abatement shall be accepted by the Town Council for the Town of Sellersburg and determined under the provisions of I.C. 6-1.1-12.1-1 et. seq.; and,

2. The Town Council hereby determines and finds that the Petition to designate the foregoing area as an economic revitalization area for the purposes of real and personal property tax abatement shall be, and hereby is, approved; and,

3. The Town Council hereby determines and finds that the purposes of an economic revitalization area as defined by law would be served by allowing deductions; and,

4. That a statement of benefits is not waived and must be submitted to the Town Council and approved by the Town Council.

BE IT FURTHER RESOLVED by the Town Council upon submission of an application for deduction presented by the Statement of Benefits filed by an applicant and approved by the Town Council for the Town of Sellersburg, said applicant shall be entitled to deductions for a period of six (6) years from improvements of real property, pursuant to I.C. 6-1.1-12.1-3(d) and I.C. 6-1.1-12.1-4(d)(3) and five years for new manufacturing equipment pursuant to I.C. 6-1.1-

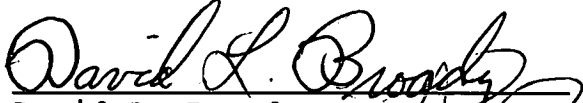
12.1-4.5 with the timely filing and perfection thereof with the Clark County Auditor's Office.


This Resolution shall be in full force and effect from and after the hearing to be conducted as set out herein and the date of its' final adoption by the Town Council.

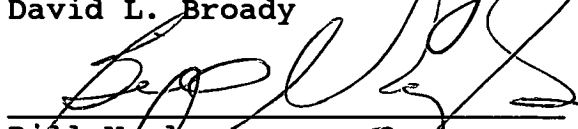
PASSED AND ADOPTED this 13th day of April, 1998, by the Town Council for the Town of Sellersburg, Indiana.

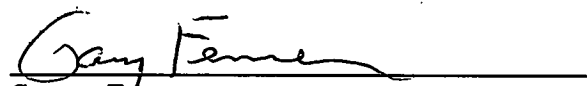
SO ORDAINED this 13th day of April, 1998.

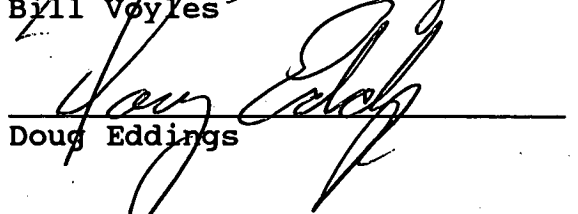
TOWN COUNCIL, TOWN OF SELLERSBURG

  
\_\_\_\_\_  
David L. Broady

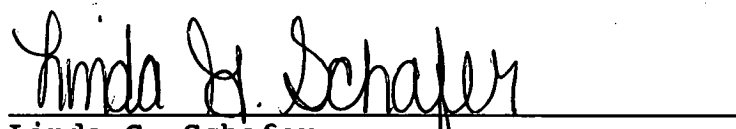
  
\_\_\_\_\_  
Ken Alexander

  
\_\_\_\_\_  
Bill Voyles

  
\_\_\_\_\_  
Gary Fenner

  
\_\_\_\_\_  
Doug Eddings

Attest:

  
\_\_\_\_\_  
Linda G. Schafer,  
Clerk/Treasurer

98-47

RESOLUTION OF THE  
SELLERSBURG TOWN COUNCIL

Comes now the Town of Sellersburg, by its council members, on the 11 day of May, 1998 and hereby passes the following resolution:

WHEREAS, the Town of Sellersburg on the 25th day of September, 1989 conveyed and warranted unto the Sellersburg Fire Protection District a certain tract of land as stated in Deed Drawer 21, Instrument No. 10221 of the Recorder's Office of Clark County, Indiana.

WHEREAS, said Warranty Deed conveying this property contained a provision wherein if the property were to ever cease being used for the purpose of actively providing the Town of Sellersburg fire protection services, then said property shall automatically revert back to the Town of Sellersburg and the Sellersburg Fire Protection District shall have no ownership interest in said property.

WHEREAS, the Sellersburg Volunteer Fire Department has leased said property from the Sellersburg Fire Protection District for a period of fifty (50) years.

WHEREAS, the Sellersburg Volunteer Fire Department desires to pledge an assignment of its Lease of said premises for securement of a loan with the Liberty National Bank.

WHEREAS, the Sellersburg Fire Protection District has provided its consent to the pledge of an assignment of said Lease Agreement for security of said loan and now seeks the approval of the Town of Sellersburg of a waiver of the reverter clause as contained in the Warranty Deed specifically for the benefit of the Liberty National Bank and limited to this transaction and only for the duration of said debt obligation by the Sellersburg Volunteer Fire Department to the Liberty National Bank.

WHEREAS, it is in the best interest of the Town of Sellersburg to facilitate the advancement of its fire protection services and the granting of such a waiver will directly benefit the ability of the Sellersburg Volunteer Fire Department to provide fire protection services to the Town of Sellersburg.

WHEREAS, this Resolution is specifically and expressly contingent upon the Fire District's re agreement that they will be responsible for directly making the payment themselves to the Liberty National Bank for this loan. It is therefore,

RESOLVED that the Town of Sellersburg by and through its Town Council, hereby passes this resolution stating that the reverter clause as contained in the Warranty Deed as recorded in the Deed Drawer 21, Instrument 10221 of the Clark County Recorder's Office, is expressly waived for the purposes of permitting the Sellersburg Volunteer Fire Department to pledge an

assignment of its Lease Agreement for said property as security for a loan with BankOne. It is further,

RESOLVED that this waiver will be effective during the term of the outstanding debt obligation from the Sellersburg Volunteer Fire Department to the BankOne. It is further,

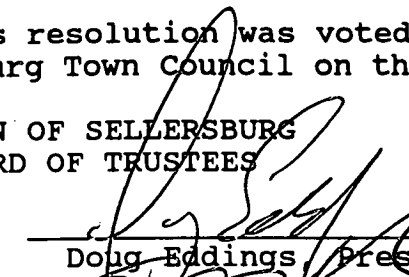
RESOLVED that said reverter clause shall remain in full force and effect as it relates to any other transaction or entity other than the BankOne. It is further,

RESOLVED that in consideration for the advancement of the fire protection services to the Town of Sellersburg and the increased value of said services, said reverter clause as contained in the Warranty Deed is hereby waived as it pertains to the interest of BankOne.

This resolution was voted on and approved by the Sellersburg Town Council on the 11 day of May, 1998.

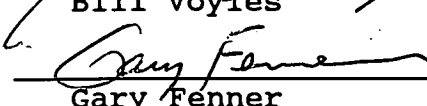
TOWN OF SELLERSBURG  
BOARD OF TRUSTEES

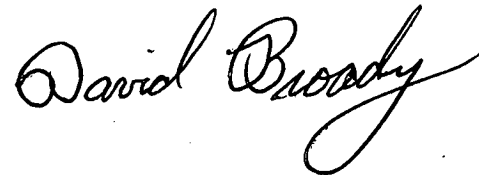
By:

  
\_\_\_\_\_  
Doug Eddings, President

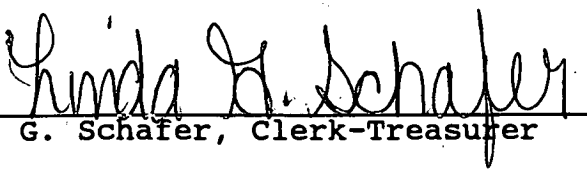
  
\_\_\_\_\_  
Ken Alexander

  
\_\_\_\_\_  
Bill Voyles

  
\_\_\_\_\_  
Gary Fenner



ATTEST:

  
\_\_\_\_\_  
Linda G. Schafer, Clerk-Treasurer

STATE OF INDIANA )

:SS

COUNTY OF CLARK )

Before me, a Notary Public, in and for said County and State, personally appeared Doug Eddings, Ken Alexander, Bill Voyles and Gary Fenner, Board of Trustees, and Linda G. Schafer, Clerk-Treasurer, and being duly sworn upon their oath, say that they are the persons who executed the foregoing, that they have read the same and that the statements therein contained are true.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_  
1998.

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NOTARY PUBLIC

COMMISSION INFORMATION:

Name:

Commission Expiration:

County of Residence:

*Original*

**RESOLUTION NO. 1998-48**

**A RESOLUTION ADOPTING A WRITTEN FISCAL PLAN  
ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO  
PROPOSED ANNEXED AREA**

WHEREAS, the Town of Sellersburg, Indiana, desires to annex contiguous area located on its southwestern boundary, known as "Annexation Area I," which are is more specifically described in Ordinance No. 98-692; and

WHEREAS, responsible planning and Indiana Law requires adoption of a fiscal plan and a definite policy for provision of services to annexed areas; and

WHEREAS, such plan has been developed and presented to the Town Council for the Town of Sellersburg, Indiana, entitled "Analysis and Fiscal Plan Annexation Area I"; and

WHEREAS, said Fiscal Plan addresses the need and the implementation of noncapital services to the annexed areas, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, which will be provided to the annexed territory within one (1) year after the effective date of annexation, and that said noncapital services will be provided in a manner equivalent in standard and scope to corporate boundaries that have similar topography, patterns of land use, and population density; and

WHEREAS, said Fiscal Plan addresses the need and the implementation of capital services to the annexed area, including street construction, street lighting, sewer facilities, water facilities

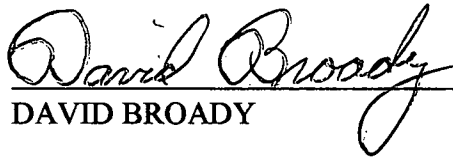
and stormwater drainage facilities, which will be provided to the annexed territory within three (3) years after the effective date of the annexation, and that said capital services will be provided in the same manner as those services are provided to areas within the corporate boundaries that have similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.


NOW, THEREFORE, BE IT RESOLVED by the Town Council for the Town of Sellersburg, Clark County, Indiana, that:

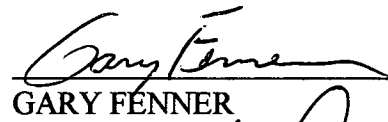
1. That the Town Council for the Town of Sellersburg, Indiana, hereby approves the adopts the fiscal plan, "Analysis and Fiscal Plan Annexation Area I", which plan is attached hereto and made a part hereof, and hereby approves and adopts specific policies for implementation of the plan as set forth therein;
2. Any monies necessary for provision of services as described and itemized in the attached plan shall be budgeted and appropriated from the applicable funds, pursuant to Indiana Law and the Town's budget procedures;
3. It is anticipated that this annexation will not result in the elimination of jobs for employees of other governmental entities, but in the event that it does, the Town Council for the Town of Sellersburg, Indiana, and all of its departments are hereby directed to assist such employees in obtaining new employment, but nothing herein shall require the Town to hire any such employees.



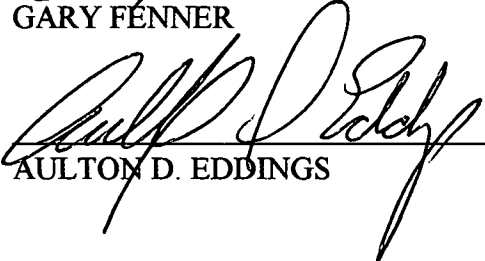
PASSED AND ADOPTED this 8th day of June, 1998, by the Town Council for the Town  
of Sellersburg, Indiana.

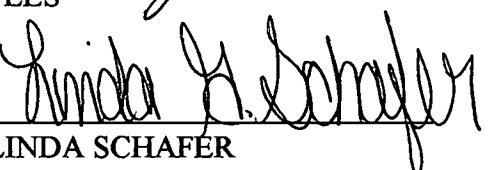
  
DAVID BROADY

  
KEN ALEXANDER

  
GARY FENNER

  
BILL VOYLES

  
AULTON D. EDDINGS

ATTEST:   
LINDA SCHAFER  
CLERK-TREASURER

**EXHIBIT "1"**  
**1998**  
**DESCRIPTION OF SELLERSBURG ANNEX AREA "I"**

A part of Survey No. 108 of the Illinois Grant in Clark County, Indiana, bounded as follows:

Beginning at the southeast corner of the first tract described at Deed Drawer 19, Instrument No. 1404, which point is in the southwesterly right-of-way line of new State Road 60 and in the present boundary of the Town of Sellersburg, thence the following courses:

- South 69 deg. 25 min. 46 sec. West, 405.23 feet, more or less, with the south line of said tract, and the Clarksville Town line to a point in the southeasterly line of Twin Brook Subdivision, Unit 2, recorded at Plat Book 8, page 77;
- South 48 deg. 24 min. 47 sec. West, 497.46 feet, more or less, with said southeasterly line and the Town line of Clarksville;
- South 48 deg. 47 min. 58 sec. West, 90.39 feet, more or less, with said southeasterly line and the Town line of Clarksville to the south corner of said Twin Brook Subdivision, Unit 2;
- North 41 deg. 12 min. 02 sec. West, 199.99 feet, more or less, with the southwesterly line of said Twin Brook Subdivision, Unit 2, and the Clarksville Town line to a point in the southeast line of a tract described at Deed Drawer 13, Instrument 9321;
- South 48 deg. 47 min. 58 sec. West, 533.04 feet, more or less, with the southeast line of said tract and the Clarksville Town line to the south corner of said tract;
- North 39 deg. 59 min. 25 sec. West, 731.14 feet, more or less, with the southwest line of said tract and the Clarksville Town line to a point in the southeast line of a tract recorded at Deed Drawer 15, Instrument No. 9623;
- South 48 deg. 15 min. 02 sec. West, 2058.93 feet, more or less, with the southeast line of said tract, and others, and the Clarksville Town line to the south corner of a tract recorded at Deed Drawer 18, Instrument No. 7685;
- South 48 deg. 45 min. West, 856.3 feet, more or less, with the southeast line of tracts recorded at Deed Drawer 28, Instrument No. 11807 and 11808; Deed Drawer 18, Instrument No. 3119; Deed Record 238, page 362; Deed Record 185, page 351; and Deed Drawer 4, Instrument No. 7231 and the Clarksville Town line to the north corner of a tract recorded at Deed Drawer 14, Instrument No. 4260;
- South 40 deg. East, 264 feet, more or less, with the northeast line of said tract and a tract recorded at Deed Drawer 28, Instrument No. 21089 and the Clarksville Town line to the easterly corner of said tract;
- South 49 deg. 59 min. 01 sec. West, 745 feet, more or less, with the southeast line of said tract and the Clarksville Town line to the northeasterly right-of-way line of County Line Road;
- North 40 deg. West, 1167.5 feet, more or less, with said northeasterly right-of-way line of County Line Road to the southeasterly right-of-way line of Poindexter Road;

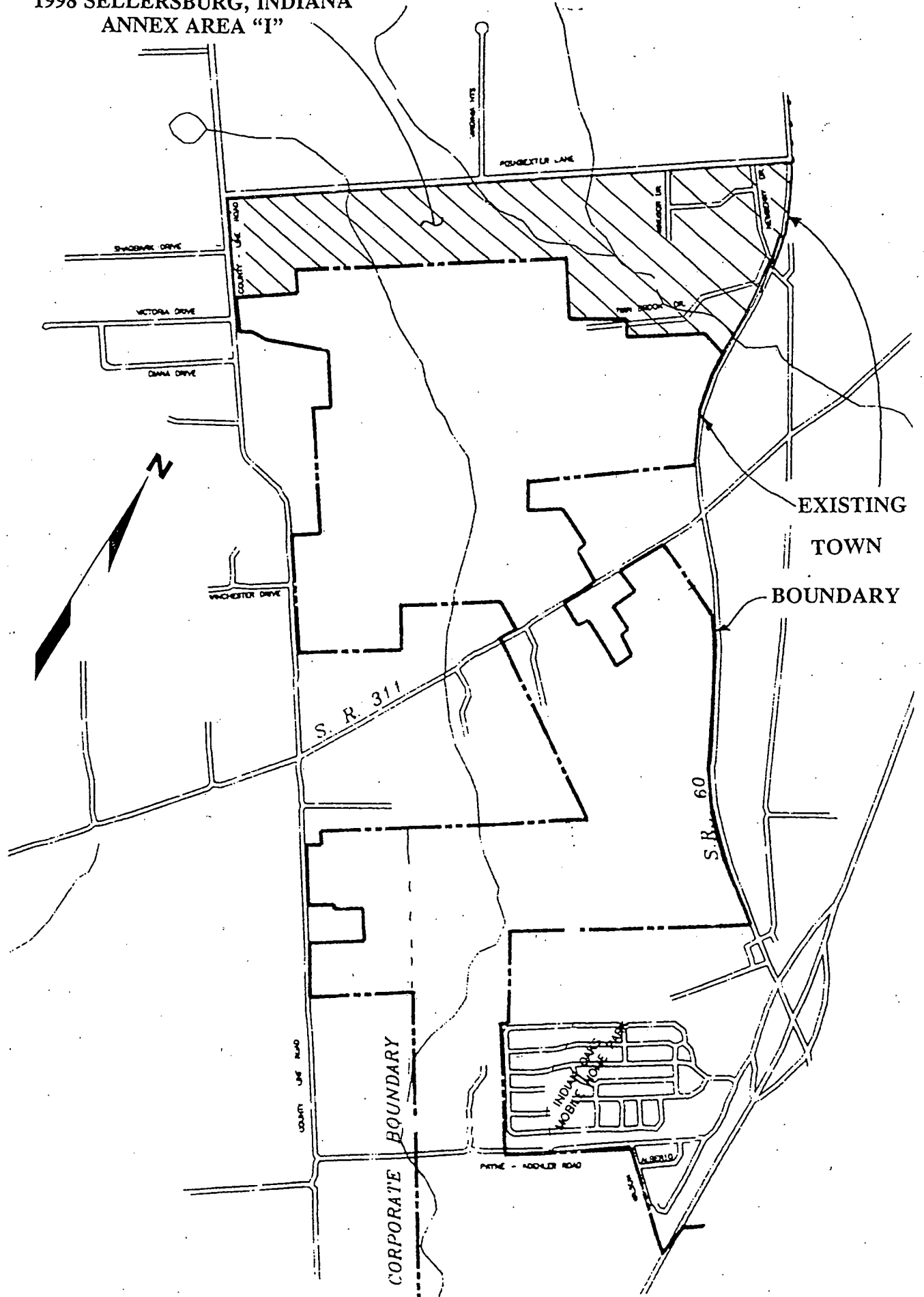
North 48 deg. 45 min. East, 5900 feet, more or less, with said southeasterly right-of-way line of Poindexter Lane , crossing new State Road 60 to it's northeasterly right-of-way line, which is the present Town boundary of Sellersburg;

Southeasterly, 1200 feet, more or less, with said northeasterly right-of-way line of new State Road 60 and the Sellersburg Town line to old State Road 60;

Westerly, 205 feet, more or less, crossing new State Road 60 with the Sellersburg Town line to the southwesterly right-of-way line of new State Road 60 which is the Sellersburg Town line;

Southeasterly, 870 feet, more or less, with said right-of-way line and the Sellersburg Town line to the point of beginning, and containing 157.6 acres of land, more or less.

1998 SELLERSBURG, INDIANA  
ANNEX AREA "I"



*Done*

*water fill,*

*9003 Hwy 60*

ACCOUNT NUMBER	CUSTOMER NAME	CUSTOMER ADDRESS
14-1740-01	VERRIL CARPENTER	8815 HIGHWAY 60
14-1746-01	MELISSA FOSTER	8919 NEWBERRY RD
14-1750-01	HAM. CH OF CHRIST	8921 NEWBERRY RD
14-1760-01	KENNETH LOCHNER	8929 NEWBERRY RD
14-1770-01	BRIAN WRIGHT	9003 NEWBERRY RD
14-1780-01	VICKY HUNERYAGER	9007 NEWBERRY RD
14-1790-02	BRUCE BLANTON	1702 MAYFAIR RD
14-1800-01	JOHNNY FERRILL	1704 MAYFAIR RD
14-1810-03	MARVIN HOSKINS	1708 MAYFAIR RD
14-1820-02	JAMES HAMILTON	1710 MAYFAIR RD
14-1830-01	WILLIAM HAGERMAN	1712 MAYFAIR RD
14-1840-01	BILLY W. SMITH	8928 WINDSOR DR
14-1850-01	WELDON McCLURE	8920 WINDSOR DR
14-1860-01	LAWRENCE KOENIG	8919 WINDSOR DR
14-1870-01	ROBERT HERNDON	8923 WINDSOR DR
14-1880-80	RONALD KELLEY	8927 WINDSOR DR
14-1890-01	KENNETH SCOTT	9003 WINDSOR DR
14-1900-01	GERALD DENNIS	9007 WINDSOR DR
14-1910-01	MELVIN ALFORD	9011 WINDSOR DR
14-1920-01	PAUL HARRIS	9020 WINDSOR DR
14-1930-01	JASON WERLE	9012 WINDSOR DR
14-1940-02	DAVID BENSON	9008 WINDSOR DR
14-1950-01	JOHN MORRISON	1711 MAYFAIR DR
14-1960-01	MARION EDWARDS	1709 MAYFAIR DR
14-1970-01	RUTH MORRISON	1707 MAYFAIR DR
14-1980-02	HAROLD CLARY	1703 MAYFAIR DR
14-1990-01	GARY HAAS	1701 MAYFAIR DR
14-2000-03	STEVEN LEWIS	1699 MAYFAIR DR
14-2010-03	PAMELA WISEMAN	1622 POINDEXTER LANE
14-2020-02	CHRIS JONES	9020 NEWBERRY RD
14-2030-01	KERMIT WISEMAN	9016 NEWBERRY RD
14-2040-01	DAVID VEST	9012 NEWBERRY RD
14-2050-01	RANDELL ELDRIDGE	9008 NEWBERRY RD
14-2060-04	BRIAN HEDRICK	9004 NEWBERRY RD
14-2065-01	KEITH COATS	9002 NEWBERRY RD
14-2070-01	RONALD CUNNINGHAM	8920 NEWBERRY RD
14-2075-02	ALTA SHIELDS	8918 NEWBERRY RD
14-2080-01	MIKE SMITH	1703 TWINBROOK DR
14-2090-02	STEVE CLEMONS	1705 TWINBROOK DR
14-2100-02	CARL SORG	1707 TWINBROOK DR
14-2110-02	MARY WALKER	1709 TWINBROOK DR
14-2120-01	JOHN WALTON	1711 TWINBROOK DR
14-2130-01	DENISE MUNCY	1717 TWINBROOK DR
14-2140-01	TERRY DAVIDSON	1805 TWINBROOK DR
14-2150-02	JOHN JENKINS	1809 TWINBROOK DR
14-2160-01	JOHN SORG	1813 TWINBROOK DR

~~Blaine~~

~~2501 Poindexter Ln~~

~~246-2130~~

BOOK 14  
NEWLY ANNEXED

ACCOUNT NUMBER	CUSTOMER NAME	CUSTOMER ADDRESS
14-2165-01	DANIELLE CAMPBELL	1814 TWINBROOK DR
14-2170-01 <i>1/2 Property, Silver Creek</i>	FLORA KUKLA	1815 TWINBROOK DR
14-2173-02	ANGELA COYLE	1818 TWINBROOK DR
14-2175-01 <i>Clarksuille *</i>	<del>ROGER GEARY</del>	<del>1820 TWINBROOK DR</del>
14-2180-02 <i>Clarksuille *</i>	<del>MORRIS VARBLE</del>	<del>1816 TWINBROOK DR</del>
14-2190-01	CHARLES BRINER	1812 TWINBROOK DR
14-2200-01	DAVID KLEEHAMER	1806 TWINBROOK DR
14-2210-01	ROBERT BENSON	1802 TWINBROOK DR
14-2220-02	BARBARA BUNUAN	1714 TWINBROOK DR
14-2230-03	ALLEN POPP	1708 TWINBROOK DR
14-2240-01	ROBERT POTEET	1706 TWINBROOK DR
14-2250-01	PHILLIP COUCH	1704 TWINBROOK DR
14-2260-01	KENNETH ROLAND	1702 TWINBROOK DR
SILVER CREEK	<i>Waketill</i>	9603
	DANNY DEAN	9001 HIGHWAY 60
02-1199-12	LARRY SAMPLES	1702 POINDEXTER LANE
02-1199-10	ROBERT McKINLEY	1704 POINDEXTER LANE
02-1199-08	NORMAN VOYLES	1708 POINDEXTER LANE
02-1199-05	JANICE HESTER	1712 POINDEXTER LANE
02-1199-00	ELLIOTT LEWIS	1714 POINDEXTER LANE
02-1198-00	LYLE STRAHM	1718 POINDEXTER LANE
02-1197-00	RUTH MANNIX	1822 POINDEXTER LANE
02-1196-00	LONZO ABSHER	1908 POINDEXTER LANE
02-1195-00	TINA GRASSER	1912 POINDEXTER LANE
02-1194-20	BARRY STEWART	1910 POINDEXTER LANE
02-1194-00	DANIEL STEWART	1914 POINDEXTER LANE
02-1193-00	JERRY DECKER	2004 POINDEXTER LANE
02-1191-00	CELIA WINTERS	2116 POINDEXTER LANE
02-1190-1	CONNIE GILLENWATER	2122 POINDEXTER LANE
02-1190	GARY FEATRESS	2206 POINDEXTER LANE
02-1179	JOEL McILVOY	2208 POINDEXTER LANE
02-1178-4	DAVID BURRIS	2202 POINDEXTER LANE
02-1178-2	ANTHONY DASARO	2306 POINDEXTER LANE
02-1178	PAMELA SCOTT	2316 POINDEXTER LANE
02-1177-25	J A BENNETT	2326 POINDEXTER LANE
02-1177	DANA YOUNG	2322 POINDEXTER LANE
02-1176	RANDY HOPPER	2410 POINDEXTER LANE
02-175-2	FRANK HUTCHINSON	2412 POINDEXTER LANE
02-1175	JAMES PHELPS	2506 POINDEXTER LANE
02-1174-95	JAMES PHELPS	2506 POINDEXTER LANE
	RANDHOLF ELDER	8910 COUNTY LINE RD
	LAWSON BERRY	9010 COUNTY LINE RD

*Jane*  
246-3784

*Bonnie* 246-2431

?

?

# FAX TRANSMISSION



JACOBI, TOOMBS AND LANZ, INC.  
120 Bell Avenue  
Clarksville, Indiana 47129  
(812) 288-6646  
(812) 288-6656 Fax

To: LINDA Date: 2/09/99  
Fax #: \_\_\_\_\_ Pages: 1, including this cover sheet.  
From: William James  
Subject: \_\_\_\_\_

If you do not receive all pages, or encounter difficulties with this transmission, please contact sender at the above number.

COMMENTS:

<sup>SR 60</sup>  
FROM MAPS 9001 & 9003 ARE BOTH IN  
SPURTS ACCORDING TO ZONING MAP

"EXHIBIT A"

The following described real estate in the Town of Sellersburg, Clark County, Indiana, described as follows, to-wit:

Beginning at the intersection of the westerly right-of-way line of State Road 31E (now S. Indiana Avenue) with the northwesterly right of way of South New Albany Street; thence in a southwesterly direction with the right-of-way line of South New Albany Street to its intersection with the easterly right of way of Triangle Drive; thence in a northwesterly direction to the southwesterly corner of Taylor as set out in Deed Drawer 16, Instrument No. 8441 in the office of the Recorder of Clark County, Indiana and the easterly right-of-way line of Interstate 65 north bound Exit 9 ramp; thence with the said Exit 9 ramp in a northerly direction to State Highway 31-W (now State Highway 311); thence in a northeasterly direction with said right of way to its intersection with the westerly right of way of State Road 31E (now S. Indiana Avenue); thence in a southeasterly direction with the southwesterly line of State Road 31-E (now S. Indiana Avenue) to the place of beginning, containing approximately 8 Acres, more or less.

c:\client\abatment\cracker\descrip



"EXHIBIT B"

SELLERSBURG

I-65 NORTH  
BOUND  
RAMP

I-65  
INTERCHANGE

I-65  
R/W

(I-65)  
R/W  
NORTH BOUND  
EXIT RAMP  
N. 72° 20' 00" E.  
374.68'

STATE HWY. No. 31-W  
R/W 5.50° 11' 30" W.  
197.0'

DAIRY  
QUEEN

PARKING  
AREA

ADAMS  
1.163 AC.  
D.D. 1, # 2169  
(TRACT "B")

TRIANGLE DR.  
EDGE OF PAVEMENT  
90.94'  
121.76'  
N. 78° 39' 58" E. N. 81° 57' 15" E.

5.77° 12' E.  
231.68'  
N. 77° 12' N.  
231.68'

ADAMS  
1.116 AC.  
D.D. 1, # 2170  
(TRACT "C")

FROODY  
2.5375 AC.  
D.A. 28, # 9925

5.59° 47' E.  
220.1'.  
5.59° 47' 35" E.  
221.01'

TAYLOR  
0.5698 AC.  
D.D. 16 # 8440  
N. 61° 11' 43" W.  
183.17'

ANDRES  
1.0064 AC.  
D.D. 26, # 159

TAYLOR  
0.236 AC.  
D.D. 14  
# 8441  
159.86'  
N. 61° 17' 48" W.

S. NEW ALBANY  
450.28'  
S. 58° 00' W.  
51'  
(OLD ORIGINAL ST. RD. 31-W)



SCALE: 1" = 50'  
SEPT. 30, 1996

DRAWING FROM DEEDS  
PART OF NO. 110, ILLINOIS GRANT

RESOLUTION NO. 1998-50

**RESOLUTION OF THE TOWN OF SELLERSBURG, INDIANA  
APPROVING THE TRANSFER OF THE CABLE TELEVISION FRANCHISE**

**WHEREAS**, Insight Communications Company, L.P. ("Franchisee") owns, operates, and maintains a cable television system ("System") in the City of Sellersburg, Indiana (the "Franchise Authority"), pursuant to a contract dated May 24, 1966, a Cable TV Franchise Amendment dated March 13, 1979, Ordinance No. 425 dated April 28, 1986, and Consent to Assignment dated May 12, 1986 (the "Franchise"), and Franchisee is the duly authorized holder of the Franchise; and

**WHEREAS**, Franchisee, TCI of Indiana Holdings, LLC ("TCI"), and Insight Communications of Indiana, LLC ("Transferee"), together with certain other related parties, are parties to an Asset Contribution Agreement and an Operating Agreement, pursuant to which the System and the Franchise will be transferred to Transferee (the "Transfer"); and

**WHEREAS**, Franchisee and Transferee have requested consent by the Franchise Authority to the Transfer in accordance with the requirements of the Franchise and have filed an FCC Form 394 with the Franchise Authority; and

**WHEREAS**, the Franchise Authority has investigated the qualifications of Transferee and finds it to be a suitable transferee;

**NOW THEREFORE BE IT RESOLVED BY THE FRANCHISE  
AUTHORITY AS FOLLOWS:**

**SECTION 1.** The Franchise Authority hereby consents to the Transfer, all in accordance with the terms of the Franchise.

**SECTION 2.** The Franchise Authority confirms that (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect and will expire on May 23, 2006, subject to options in the Franchise, if any, to extend such term, (c) the Franchise supersedes all other agreements between the parties, (d) the Franchise represents the entire understanding of the parties and Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise, and (e) Franchisee is materially in compliance with the provisions of the Franchise and there exists no fact or circumstance known to the Franchise Authority which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights thereunder.

**SECTION 3.** Transferee may transfer the Franchise or control related thereto to any entity controlling, controlled by, or under common control with Transferee.

**SECTION 4.** The Franchise Authority hereby consents to and approves the assignment, mortgage, pledge, or other encumbrance, if any, of the Franchise, the System, or assets relating thereto, as collateral for a loan.

**SECTION 5.** This resolution shall be deemed effective upon the closing of the Transfer (the "Closing Date").

**SECTION 6.** The Franchise Authority releases Franchisee, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date; provided that Transferee shall be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.

**SECTION 7.** This Resolution shall have the force of a continuing agreement with Franchisee and Transferee, and Franchise Authority shall not amend or otherwise alter this Resolution without the consent of Franchisee and Transferee.

PASSED, ADOPTED AND APPROVED this 13<sup>th</sup> day of July, 1998.

By: David L. Brady V. P.

ATTEST:

Hinda G. Schaefer  
City Clerk

\*\*\*\*\*

I, the undersigned, being the duly appointed, qualified and acting Clerk of the City of Sellersburg, Indiana, hereby certify that the foregoing Resolution No. \_\_\_ is a true, correct and accurate copy as duly and lawfully passed and adopted by the governing body of the City on the 13<sup>th</sup> day of July, 1998.

Hinda G. Schaefer  
City Clerk

**ORIGINAL**

STATE OF INDIANA

**INDIANA UTILITY REGULATORY COMMISSION**

<b>APPLICATION BY INSIGHT</b>	)	
<b>COMMUNICATIONS MIDWEST, LLC FOR A</b>	)	<b>CAUSE NO. 43174 VSP 01</b>
<b>CERTIFICATE OF FRANCHISE</b>	)	
<b>AUTHORITY TO PROVIDE VIDEO</b>	)	<b>APPROVED: DEC 06 2006</b>
<b>SERVICES IN THE STATE OF INDIANA.</b>	)	

**BY THE COMMISSION:**

**Aaron A. Schmoll, Administrative Law Judge**

On November 1, 2006, Insight Communications Midwest, LLC ("Applicant"), filed with the Indiana Utility Regulatory Commission ("Commission") its Application for a Certificate of Franchise Authority ("Application") to provide video service within the State of Indiana pursuant to Ind. Code § 8-1-34 *et seq.*

On November 22, 2006 and November 27, 2006, Applicant supplemented its Application with additional information regarding its proposed designated service areas.

Based upon information contained in the Application and applicable law, the Commission makes the following findings:

1. **Commission Notice and Jurisdiction.** Notice of the Application was provided on the Commission's website in accordance with General Administrative Order 2006-5. The Applicant requests the issuance of a Certificate of Franchise Authority ("CFA") pursuant to Ind. Code § 8-1-34-17 and, therefore, the Commission has jurisdiction over the Applicant and the subject of this Cause.
2. **Commission Discussion and Findings.** The Applicant filed an application for a CFA on the application form prescribed by the Commission and provided information describing the video service that it is proposing to provide in (a) designated service area(s) within the State of Indiana. Applicant's proposed designated service areas include the areas identified on Attachment 1.

Based upon the information provided by the Applicant in its Application, the Commission finds the Application to be complete and properly verified. Therefore, in accordance with Ind. Code § 8-1-34-17(a), the Commission finds that a CFA for the video services within the designated service area(s) as identified in the Application should be issued to the Applicant and that the Applicant should be authorized to use and occupy public rights-of-way in the delivery of the requested video services, subject to state and local laws and regulations governing the use and occupancy of public rights-of-way and the police powers to enforce such laws and regulations. The granting of this CFA is subject to the Applicant's lawful provision and operation of video service.

confidential  
Insight Communications  
Nov 19, 2006 12:50 GMT-04:45:00

In addition, as a condition of receiving this CFA, the Commission finds the Applicant shall comply with all applicable legal requirements pertaining to the construction and operation of video services authorized by this CFA, including without limitation, the following:

- a. Notice to the Commission of any changes involving the Applicant or this CFA pursuant to Ind. Code § 8-1-34-20(a);
- b. Ten (10) days advance notice to any unit or unincorporated area included in the designated service area covered by this CFA in which the Applicant does not already provide video service, that the Applicant intends to provide video service in the unit's or unincorporated area's jurisdiction as required by Ind. Code § 8-1-34-20(b);
- c. Advance notice to customers in the event of a change in rates and charges for video service in accordance with Ind. Code § 8-1-34-20(c)(1);
- d. Advance notice to customers in the event the Applicant will cease to offer video service or any specific video programming that it currently offers in any of the Applicant's designated service areas in Indiana pursuant to Ind. Code § 8-1-34-20(c)(2);
- e. Annual filing, by March 1 each year, of a report indicating changes (e.g., deletions and additions) in video programming or other programming service during the previous calendar year pursuant to Ind. Code § 8-1-34-20(a)(6);
- f. Quarterly filing with the Commission of updated maps indicating, at the census block level, the portion of authorized designated service areas in which the Applicant is actually offering video service or a statement indicating that no changes occurred during the quarter pursuant to Ind. Code § 8-1-34-20(a)(7);
- g. Ensure that access to video service is not denied to any group of potential residential video subscribers because of the income of the residents of the local area in which such group resides in accordance with Ind. Code § 8-1-34-28(b) and 47 USC § 541(a)(3);
- h. Payment and performance of any rights, duties, and obligations owed to any private person as required by Ind. Code § 8-1-34-22(c);
- i. Payment of all fees owed to units and unincorporated areas included within Applicant's service area as required by Ind. Code § 8-1-34-24; and
- j. Compliance with any requirements that may be imposed by the Commission regarding channels for public, educational and governmental programming ("PEG Channels") as set forth in Ind. Code §§ 8-1-34-25, 26, 26.5, and 27 that may be required at the time of, or subsequent to, issuance of the Certificate, by

Commission rules, upon petition of a unit or unincorporated area included in the Applicant's designated service areas, or upon the Commission's own motion.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Subject to the Findings set forth in this Order, the Applicant, Insight Communications Midwest, LLC, is hereby granted a Certificate of Franchise Authority to provide the requested video services in the Applicant's designated service areas within the State of Indiana.

2. Pursuant to Ind. Code § 8-1-34-17(a)(2), Applicant is granted authority to use and occupy public rights-of-way, subject to state and local laws and regulations and the police powers of local units to enforce such local laws governing the use and occupancy of public rights-of-way.

3. The authority granted in Order paragraphs 1 and 2 above is subject to the Applicant's lawful provision and operation of the video service.

4. This Order shall be effective on and after the date of its approval.

**HARDY, LANDIS, SERVER AND ZIEGLER CONCUR:**

**APPROVED: DEC 06 2006**

I hereby certify that the above is true and correct copy of the Order as approved.

  
**Brenda A. Howe**  
Secretary to the Commission

*confidential*  
Liza Grier  
Insight Communications  
Nov 19, 2008 18:50 GMT-04 AST, EDT

# CAUSE NO. 43174 VSP 01

## ATTACHMENT 1

### DESIGNATED SERVICE AREA (DSA) INSIGHT COMMUNICATIONS MIDWEST, LLC

DSA	County	Township	Municipalities*	Zip Code
1	Adams	All	Berne, Decatur, Geneva, Monroe	All
2	Benton	All	Ambia, Boswell, Earl Park, Fowler, Otterbein, Oxford	All
3	Blackford	All	Hartford City, Shamrock Lakes	All
4	Boone	All	Advance, Jamestown, Lebanon, Thorntown, Ulen, Whitestown, Zionsville	All
5	Brown	All	Nashville	All
6	Cass	All	Galveston, Logansport, Onward, Royal Center, Walton	All
7	Clark	All	Charlestown, Clarksville, Henryville, Jeffersonville, Memphis, New Washington, Oak Park, Sellersburg, Utica	All
8	Clinton	All	Borden, Colfax, Frankfort, Kirklin, Michigantown, Mulberry, Rossville	All
9	Decatur	All	Greensburg, Milford, Vinton, Newpoint, St. Paul, Westport	All
10	Delaware	All	Albany, Chesterfield, Daleville, Gasport, Muncie, Selma, Yorktown	All
11	Dubois	All	Birdseye, Ferdinand, Holland, Huntington, Jasper	All
12	Floyd	All	Galena, Georgetown, Greenville, New Albany	All
13	Fountain	All	Attica, Covington, Hillsboro, Kingman, Mellott, Newtown, Veedersburg, Walla	All
14	Gibson	All	Fort Branch, Halbstadt, Hazleton, Mackey, Oakland City, Patoka, Princeton, Riverview	All
15	Grant	All	Conover, Fairmount, Fowlington, Gas City, Jonesboro, Marion, Matthews, Swayzee, Sweetser, Upland, Van Buren	All
16	Greene	All	Bloomfield, Jasonville, Linton, Worthington	All
17	Hamilton	All	Arcadia, Atlanta, Carmel, Cicero, Fishers, Noblesville, Sheridan, Westfield	All
18	Hancock	All	Cumberland, Fortville, Greenfield, Indianapolis City (balance), Lawrence, McCordsville, New Palestine, Shirley, Spring Lake, Wilkinson	All
19	Harrison	All	Corydon, Crandall, Laconia, Lansville, Maukport, New Amsterdam, New Middletown, Palmyra, Shirley	All
20	Henry	All	Blountsville, Cadiz, Dunreith, Greensboro, Kennard, Knightstown, Lewisville, Middletown, Mooreland, Mount Summit, New Castle, Spiceland, Springport, Straughn, Sulphur Springs	All
21	Howard	All	Greentown, Indian Heights, Kokomo, Russiaville	All
22	Jackson	All	Brownstown, Crothersville, Medora, Seymour	All
23	Jay	All	Bryant, Dunkirk, Pennville, Portland, Redkey, Salamonia	All

24	Johnson	All	Bargersville, Edinburgh, Franklin, Greenwood, Indianapolis City (balance), New Whiteland, Princess Lakes, Trafalgar, Whiteland	All
25	Lawrence	All	Bedford, Oolitic	All
26	Madison	All	Alexandria, Anderson, Chesterfield, Country Club Heights, Edgewood, Elwood, Frankton, Ingalls, Lapel, Markleville, Orestes, Pendleton, River Forest, Summitville, Woodland Heights	All
27	Miami	All	Bunker Hill, Denver, Grissom AFB, Macy, Mexico, Peru	All
28	Monroe	All	Bloomington, Brooklyn, Ellettsville, Stinesville	All
29	Morgan	All	Bethany, Indianapolis City (balance), Martinsville, Monrovia, Mooresville, Morgantown, Paragon	All
30	Owen	All	Gosport, Spencer	All
31	Parke	All	Mecca, Montezuma, Rockville, Rosedale	All
32	Posey	All	Cynthiana, Griffin, Mount Vernon, New Harmony, Poseyville	All
33	Putnam	All	Bainbridge, Cloverdale, Fillmore, Greencastle, Roachdale, Russellville	All
34	Randolph	All	Farmland, Losantville, Lynn, Modoc, Parker City, Ridgeville, Saratoga, Union City, Winchester	All
35	Rush	All	Carthage, Glenwood, Rushville	All
36	Scott	All	Austin, Scottsburg	All
37	Sullivan	All	Carlisle, Dugger, Farmersburg, Hymera, Merom, Shelburn, Sullivan	All
38	Tippecanoe	All	Battle Ground, Clarks Hill, Dayton, Lafayette, Shadeland, West Lafayette	All
39	Tipton	All	Kempton, Sharpsville, Tipton, Windfall City	All
40	Vanderburgh	All	Darmsdorf, Evansville, Highland, Melody Hill	All
41	Vermillion	All	Cayuga, Clinton, Dana, Fairview Park, Newport, Perrysville, Universal	All
42	Warren	All	Pine Village, State Line City, Williamsport	All
43	Warrick	All	Boonville, Chandler, Elberfeld, Lytleville, Newburgh, Tennyson	All
44	Washington	All	Campbellburg, Fredericksburg, Hardinsburg, Liberty, Livonia, New Pekin, Salem, Salt Springs	All
45	Wayne	All	Boston, Cambridge City, Centerville, Ellettsville, Economy, Fountain City, Greens Fork, Harerstown, Milton, Mount Auburn, Richmond, Spring Grove, Whitewater	All

\*This includes the municipalities Insight currently serves. However, Insight is requesting all the municipalities in the County.



THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL  
CLARK CO., INDIANA  
LINDA G. SCHAFER

EXP: 04-16-01

RESOLUTION NO. 1998-50

**RESOLUTION OF THE TOWN OF SELLERSBURG, INDIANA  
APPROVING THE TRANSFER OF THE CABLE TELEVISION FRANCHISE**

**WHEREAS**, Insight Communications Company, L.P. ("Franchisee") owns, operates, and maintains a cable television system ("System") in the City of Sellersburg, Indiana (the "Franchise Authority"), pursuant to a contract dated May 24, 1966, a Cable TV Franchise Amendment dated March 13, 1979, Ordinance No. 425 dated April 28, 1986, and Consent to Assignment dated May 12, 1986 (the "Franchise"), and Franchisee is the duly authorized holder of the Franchise; and

**WHEREAS**, Franchisee, TCI of Indiana Holdings, LLC ("TCI"), and Insight Communications of Indiana, LLC ("Transferee"), together with certain other related parties, are parties to an Asset Contribution Agreement and an Operating Agreement, pursuant to which the System and the Franchise will be transferred to Transferee (the "Transfer"); and

**WHEREAS**, Franchisee and Transferee have requested consent by the Franchise Authority to the Transfer in accordance with the requirements of the Franchise and have filed an FCC Form 394 with the Franchise Authority; and

**WHEREAS**, the Franchise Authority has investigated the qualifications of Transferee and finds it to be a suitable transferee;

**NOW THEREFORE BE IT RESOLVED BY THE FRANCHISE  
AUTHORITY AS FOLLOWS:**

**SECTION 1.** The Franchise Authority hereby consents to the Transfer, all in accordance with the terms of the Franchise.

**SECTION 2.** The Franchise Authority confirms that (a) the Franchise was properly granted or transferred to Franchisee, (b) the Franchise is currently in full force and effect and will expire on May 23, 2008, subject to options in the Franchise, if any, to extend such term, (c) the Franchise supersedes all other agreements between the parties, (d) the Franchise represents the entire understanding of the parties and Franchisee has no obligations to the Franchise Authority other than those specifically stated in the Franchise, and (e) Franchisee is materially in compliance with the provisions of the Franchise and there exists no fact or circumstance known to the Franchise Authority which constitutes or which, with the passage of time or the giving of notice or both, would constitute a material default or breach under the Franchise or would allow the Franchise Authority to cancel or terminate the rights thereunder.

**SECTION 3.** Transferee may transfer the Franchise or control related thereto to any entity controlling, controlled by, or under common control with Transferee.

**SECTION 4.** The Franchise Authority hereby consents to and approves the assignment, mortgage, pledge, or other encumbrance, if any, of the Franchise, the System, or assets relating thereto, as collateral for a loan.

**SECTION 5.** This resolution shall be deemed effective upon the closing of the Transfer (the "Closing Date").

**SECTION 6.** The Franchise Authority releases Franchisee, effective upon the Closing Date, from all obligations and liabilities under the Franchise that accrue on and after the Closing Date; provided that Transferee shall be responsible for any obligations and liabilities under the Franchise that accrue on and after the Closing Date.

**SECTION 7.** This Resolution shall have the force of a continuing agreement with Franchisee and Transferee, and Franchise Authority shall not amend or otherwise alter this Resolution without the consent of Franchisee and Transferee.

PASSED, ADOPTED AND APPROVED this 13<sup>th</sup> day of July, 1998.

ATTEST:

Linda H. Schaefer  
City Clerk

confidential  
Liza Grier  
Insight Communications, Inc.  
\*\*\*\*\* 18:42 GMT-04 AST  
Nov 19, 2008

I, the undersigned, being the duly appointed, qualified and acting Clerk of the City of Sellersburg, Indiana, hereby certify that the foregoing Resolution No. \_\_\_ is a true, correct and accurate copy as duly and lawfully passed and adopted by the governing body of the City on the 13<sup>th</sup> day of July, 1998.

Linda H. Schaefer  
City Clerk

This contract granting a franchise is made and entered into this 24th day of May 1966, by and between the TOWN OF SELLERSBURG, INDIANA AND THE SELLERSBURG CABLEVISION COMPANY, INC., its successors and assigns, an Indiana Corporation with its principal place of business in Clark County, State of Indiana, under the following terms and conditions:

SECTION 1. "DEFINITIONS." For the purpose of this franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Provisions of this franchise shall be construed in accordance with the laws of the State of Indiana.

(a) "Town." The town shall mean, a municipal corporation of the State of Indiana, in its present incorporated form or in any later reorganized, consolidated, enlarged, or re-incorporated form, and including any future approved amendments.

(b) "Board of Town Trustees." The present governing body of the Town or any future body constituted by the legislative body of the Town.

(c) "Franchise Property." All property owned, installed or used under authority of this franchise.

(d) "Grantee." The person or corporation to whom or which this franchise is granted by the Board of Town Trustees.

(e) "Street." The surface of, and the space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the Town.

(f) "Community Antenna Television System" hereinafter referred to as "CATV". Coaxial cables, wave guides, or other conductors and equipment for providing television, radio or other service by cable or through the atmosphere or through

(g) "Subscribers." Any person or entity receiving for any purpose the CATV service of the franchise herein.

SECTION 2 "GRANT OF FRANCHISE." The franchise hereby granted by the Town authorizes the Sellersburg Cablevision Company, Inc., grantee and its assigns, subject to the provisions herein contained, to engage in the business of operating and providing a CATV system in the Town, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in streets such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system, and, in addition, so to use operate and provide similar properties rented or leased from other persons, firms, or corporations, for such purpose.

SECTION 3 "DURATION OF GRANT." This franchise shall expire twenty (20) years after the effective date thereof, unless sooner terminated by the Board of Town Trustees. In the event the Board of Town Trustees shall have found after notice and hearing that the Grantee has failed to comply with any material provision hereof and has failed to correct any failure after thirty (30) days written notice; provided that, if this contract is not so terminated, then this contract shall be renewable, at the option of Grantee, for one additional twenty (20) year term and subject to the same conditions contained herein.

SECTION 4. "RIGHTS RESERVED TO TOWN." There is hereby reserved to the Town every right and power which is required to be herein reserved or provided by any ordinance of the Town and the Grantee, by its acceptance of this franchise, agrees to be bound thereby, and to comply with any action or requirement of the Town in its exercise of any such right or power, heretofore, or hereafter enacted or established.

SECTION 5. "TIME OF PERFORMANCE." Installation of a CATV

SECTION 6. "LOCATION OF FRANCHISE PROPERTIES." Franchise property shall be constructed or installed in streets only at such locations and in such manner as shall be approved by the Board of Town Trustees, acting in the exercise of reasonable discretion. Construction or installation of franchise property in all public places shall be subject to approval of and regulation by the Board of Town Trustees.

SECTION 7. "REMOVAL OR ABANDONMENT OF FRANCHISE PROPERTY."

(a) In the event that the use of any franchise property is discontinued for any reason for a continuous period of twelve (12) months or that franchise property has been installed in any street without complying with the requirements of this franchise, or the franchise has been terminated, cancelled or has expired, the Grantee shall promptly remove from the street all such property other than any which the Board of Town Trustees may permit to be abandoned in place. In the event of any such removal, the Grantee shall promptly restore the street or other area from which such property has been removed to condition satisfactory to the Board of Town Trustees.

(b) Franchise property to be abandoned in place shall be abandoned in such manner as the Board of Town Trustees shall prescribe. Upon permanent abandonment of any franchise property in place, the Grantee shall submit to the Board of Town Trustees an instrument, satisfactory to the Board of Town Trustees transferring to the Town, the ownership of such property.

SECTION 8. "FAILURE TO SURFACE STREET WORK." Upon failure of the Grantee to complete any work required by law or by the provisions of this franchise to be done in any street, within the time prescribed, and, to the satisfaction of the Board of Town Trustees, the Board of Town Trustees may cause such work to be done and the Grantee shall pay to the Town the cost thereof in the itemized accounts reported by the Board of

## SECTION 9. "INDEMNIFICATION TO TOWN."

(a) The Grantee agrees that it shall hold the Town harmless from all claims for damage arising out of the construction, maintenance or operation of the aforementioned system. Grantee further agrees that at all times during the existence of this franchise it will maintain in force, furnish and file with the Town, at its own expense, a general comprehensive liability insurance policy, in protection of the Town and of its boards, commissions, officers, agents and employees, in a company authorized to do business in the State of Indiana, and in form satisfactory to the Board of Town Trustees, protecting the Town and said persons against liability for loss or damages for personal injury, death and property damage occasioned by the operations of Grantee under this franchise, with minimum liability limits of \$100,000 for personal injury or death of any one person, and \$300,000 for personal injury or death of two or more persons in any one occurrence and \$50,000 for damages to property resulting from any one occurrence.

(b) The policies mentioned in the foregoing paragraph shall contain a provision that a written notice of cancellation or reduction in coverage of said policy shall be delivered to the Town ten (10) days in advance of the effective date hereof. If such insurance is provided in either case by a policy which also covers Grantee or any other entity or person than those above named, then such policy shall contain the standard cross-liability endorsement.

SECTION 10. "INSPECTION OF PROPERTY AND RECORDS." At all reasonable times, the Grantee shall permit any duly authorized representative of the Town to examine all franchise property, together with any appurtenant property of the Grantee situated within or without the Town, and to examine and transcribe any and all maps and other records kept, including all accounting

If any of such maps or records are not kept in the Town, or upon reasonable request made available in the Town, and if the Board of Town Trustees shall determine that an examination thereof is necessary or appropriate, then all travel and maintenance expense necessarily incurred in making such examination shall be paid by the Grantee. The Grantee shall prepare and furnish to the Board of Town Trustees at the times and in the form prescribed by the Board of Town Trustees, such reports, with respect to its operations, affairs, transactions or property, as may be reasonably necessary or appropriate to the performance of any of the duties of the Town or any of its officers and employees in connection with this franchise. The Grantee shall, at all times, make and keep in the Town full and complete plans, maps, and records showing the exact location of all CATV system equipment installed or in use by the Grantee in streets, alleys and public places in the Town.

SECTION 11. "GRANTEE COVENANTS." The Grantee covenants and agrees with the Town that while this contract is in effect it will not engage in the business of selling or servicing television sets in the Town of Sellersburg, Indiana, or with any of its inhabitants.

SECTION 12. "COMPENSATION." In consideration of the rights, privileges, and authority hereby granted and in compensation to the Town for the use of its public places, and in lieu of any privilege franchise or occupational tax, the Grantee agrees to pay to the Town on or before the fifteenth day of June of each year a sum equal to three per cent (3%) of its gross receipts during the preceding calendar year.

SECTION 13. "INSTALLATION AND MONTHLY CHARGE TO CUSTOMERS." The Grantee further agrees that its installation charge shall be without regard to commercial, industrial or residential use and the Grantee will connect the system into any customer's home

Dollars (\$2.50). The monthly charge for such service for the first outlet shall not be more than five dollars (\$5.00) per month regardless of whether the installation be residential commercial or otherwise. One Dollar (\$1.00) for the second outlet, and Fifty Cents (50¢) for the third and for each additional outlet thereafter provided however, that the Grantee may reduce such monthly fee if, in its sole discretion, it is appropriate. If the Grantee desires to raise or increase the monthly charge to more than Five Dollars (\$5.00) for the first outlet or to raise or increase any other charges during the term of this contract, then the Grantee must secure the prior approval of the Board of Town Trustees before effecting such an increase. The Grantee further agrees to furnish free service to any town or parochial school building and any Silver Creek Township school building and to any town buildings.

SECTION 14. "COVENANT TO CARRY LOCAL STATIONS."

The Grantee agrees that it will include any TV station and any FM station located in Clark County Indiana, in its transmission and distribution system and in so doing, will observe and apply the same standards of quality regarding the transmission and distribution of TV and FM signals and impulses as are applied to all stations included in the system.

SECTION 15. "POPULATION DENSITY." The Grantee agrees to install signal distribution facilities subject to satisfactory pole clearance and pole rental arrangements to all residents of the Town with a population density of fifty (50) homes per running mile of system or more. However, after a period of five (5) years from the beginning of operations of said CATV system, Grantee agrees to provide service in any areas within the limits of the town that the Board of Town Trustees of said Town requests to be served. Said request to be in writing and sent to the Grantee by regular United States Mails.



SECTION 16. "UNDERGROUND CABLE." Grantee agrees that in any areas within the limits of the Town where the utility providing electric service and the utility providing telephone service have installed their cable underground, that the Grantee will likewise install its cable underground.

SECTION 17. This franchise shall not be assignable in whole or in part without the written approval of the Town Board of Trustees.

Passed by the TOWN OF SELLERSBURG, INDIANA, this

24 day of May, 1966.

In witness whereof the Grantee, the SELLERSBURG CABLEVISION COMPANY, INC., has here unto caused the execution of this

instrument this 24 day of May, 1966,

and the Grantor, the TOWN OF SELLERSBURG, INDIANA, has caused the execution hereof by its duly designated officials this

24 day of May, 1966.

*Confidential*  
*Lisa Grier*  
*Insight Communications*  
*Nov 19 2008 18:42 GMT-04 AST, EDT*

John H. Vande  
John H. Vande, President

Charles M. Hostettler  
Charles Hostettler, Member

John D. Hinton  
John D. Hinton, Member

Attest:

H. Robert Ludwig  
Clerk-Treasurer

Trustees, and comes also the Clark County Cable Company, by its appropriate representatives, and enter into this amendment based upon the conditions and terms as set out below.

WHEREAS, Clark County Cable Company now holds all the rights, privileges and obligations under the Franchise Agreement originally entered into between the Town and G.R.C. T.V., Inc., on May 24, 1966; and,

WHEREAS, said G.R.C. T.V., Inc., and its successor were both unable to operate the cable T.V. system which covers Sellersburg, Indiana, as a profitable business and have since passed on their interest to the present holder of this franchise right, Clark County Cable Company; and,

WHEREAS, said Clark County Cable Company is now in the process of investing substantial sums of money in order to improve the system with the hope of turning it into a profitable venture.

BE IT THEREFORE RESOLVED, both parties hereto to amend said Franchise Agreement of May 24, 1966, as amended, as follows:

(1.) Hereafter Section "Definitions" of said original Franchise Agreement shall be amended by the inclusion of the following definition for gross receipts:

"Gross Receipts" shall include all receipts derived by Grantee from regular subscriber services including charges resulting from the carriage of broadcast signals and Federal Communications mandate, non-broadcast services within the City; provided, however, that to the extent receipts or disbursements relating to the following items are included in the above Gross Subscriber Revenues they shall be deducted therefrom.

1. Federal excise tax, state and city sales tax.
2. Copyright fees.
3. Receipts from "ancillary" or "auxillary" services which include, but are not limited to, advertising, leased channels and programming supplied, or a pay channel charge basis.
4. Receipts received by Grantee where Grantee is acting as a collection agency.
5. Refunds made to subscribers.
6. All installation charges.

(2.) Section 13 shall be amended to permit Grantee to charge \$20.00 for installation and \$8.25 for monthly service for first outlet.

IN WITNESS of this agreement to amend Franchise contract, the parties hereto subscribe their signatures below on this 13th day of March, 1979.

BOARD OF TRUSTEES  
TOWN OF SELLERSBURG, INDIANA

by: John V. Weir  
Town Board President

CLARK COUNTY CABLE COMPANY

by: David R. Hopkins

confidential

Liza Grier

Insight Communications

Nov 19, 2008 18:42 GMT-04 AST, EDT

RESOLUTION NO. 1998-51

A RESOLUTION OF THE TOWN OF SELLERSBURG TOWN COUNCIL TO  
CHANGE THE NAME OF A STREET WITHIN THE  
MUNICIPAL BOUNDARIES OF THE TOWN OF SELLERSBURG

WHEREAS, the Town Council for the Town of Sellersburg has determined there is a need to change the name of a certain street within the municipal boundaries of the Town of Sellersburg; and

WHEREAS, the Town Council has determined that it is necessary to change the name of the street at issue for the purposes of insuring the proper delivery of the United States mail and to prevent confusion in the event the local police department and fire department are required to respond to calls for assistance; and

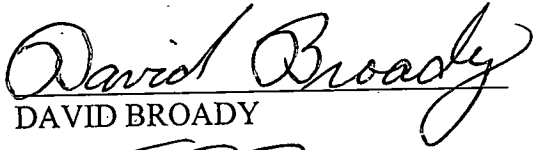
WHEREAS, the Town Council has determined that the herein Resolution is necessary for the efficient and effective administration of Town Government and in the best interest of the residents which live along the affected street; and

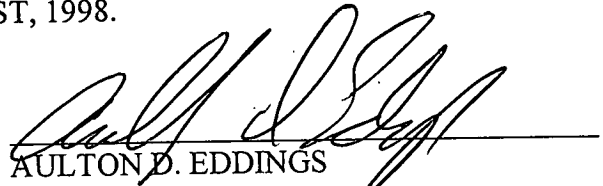
WHEREAS, this matter was discussed at an open meeting of the Sellersburg Town Council at which the public were invited to attend and participate.

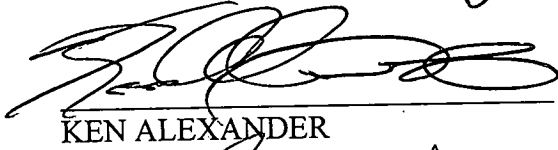
THEREFORE, BE IT NOW RESOLVED BY THE SELLERSBURG TOWN  
COUNCIL AS FOLLOWS:

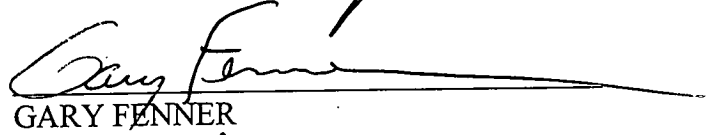
That the name of Forrest Drive South, located and beginning at the boundary of the Lakeside subdivision, located within the municipal boundaries of the Town of Sellersburg, shall be and hereby is changed to the name of Lakeside Court, the change of name of said street to become effective on the date of passage of the herein Resolution.

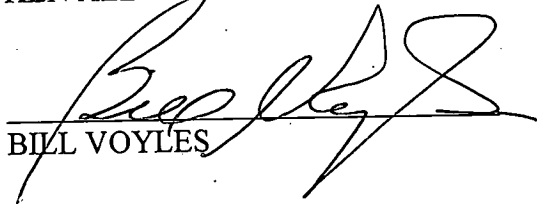
SO RESOLVED THIS 10TH OF AUGUST, 1998.

  
DAVID BROADY

  
AULTON D. EDDINGS

  
KEN ALEXANDER

  
GARY FENNER

  
BILL VOYLES

  
LINDA SCHAFFER, CLERK/TREASURER