

**MINUTES OF THE PROCEEDINGS
OF THE
COMMON COUNCIL**

CITY OF TERRE HAUTE, INDIANA

REGULAR SESSION, THURSDAY, JUNE 6, 2024

The City Council met in Regular Session Thursday, June 6, 2024 at 6:00 P.M. in the City Hall Courtroom with Mrs. Boland presiding and Michelle L. Edwards, City Clerk, and Kelley Duggins, Chief Deputy, at the City Clerk's desk.

**Moment of Silence and Pledge of Allegiance to the Flag by Councilperson James Chalos
Calling Of the Roll**

PRESENT: George Azar, Tammy Boland, James Chalos, Curtis DeBaun IV, Anthony Dinkel, Cheryl Loudermilk, Todd Nation, Amanda Thompson

Public Comment on Items Not on the Agenda

- a. Herb Rukes concerning parking at Next Step and zoning of buildings in Farringtons Grove. He also commented on the recent utility commission meeting held at Ivy Tech.
- b. Donald Hyde concerning the Parks meeting that were to be held in May. He also commented on the need for parks.
- c. Jeff Ford concerning homelessness and the downtown area.No Corrections to the Journal of the Preceding Meeting

Communication from the Mayor

- a. Brandon Sakbun, Mayor, commented on the State of the City address scheduled for June 18, 2024. He also commented on the Park master plan and the status of Redevelopment projects.
- b. Councilperson Todd Nation asked about the Mullen Flats project.

Reports from City Officials

- a. Diane Luther, Deputy Chief EMS, presented update on the Fire Department runs.

No Reports from Board of Public Works and Safety

No Reports from Standing Committees

No Reports from Non-Standing Committees

Items Previously Tabled

SPECIAL ORDINANCE 15, 2024 – Authorizing Payment In Lieu Of Taxes (PILOT) for River Valley Apartments LLC <Dinkel>

SPECIAL ORDINANCE 15, 2024, previously tabled on May 2, 2024, was read by digest. Motion was made by Councilperson Azar and seconded by Councilperson Chalos to withdraw SPECIAL ORDINANCE 15, 2024. Motion carried.

SPECIAL ORDINANCE NO. 15

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA AUTHORIZING PAYMENTS IN LIEU OF TAXES

The Common Council (the “Council”) of the City of Terre Haute, Vigo County, Indiana (the “City”) met at a duly called and authorized meeting of the Council held on the date set forth below, such meeting being called pursuant to a notice stating the time, place and purpose of the meeting received by all members of the Council, and the following resolutions were made, seconded and adopted by a majority of those present at the meeting, which constituted a legal quorum of the Council.

WHEREAS, the City is a duly organized municipal corporation and political subdivision under the laws of the State of Indiana, governed by its duly elected Council;

WHEREAS, Kendall Terre Haute, LLC, a Delaware limited liability company (“Kendall”), owns certain real estate consisting of approximately ± 7 acres generally located at 1325 N. 4th Street, Terre Haute, Indiana 47807, as further depicted and described on Exhibit A attached hereto and incorporated herein by reference (the “Property”);

WHEREAS, in accordance with that certain Real Estate Purchase Agreement, as amended, by and between Kendall and New Directions Housing Corporation, an Illinois nonprofit corporation (“NDHC”), the Property will be sold to an affiliate of NDHC, River Valley Apartments, LLC, an Indiana limited liability company (the “Owner”);

WHEREAS, the Owner wishes to develop, construct, and operate a forty (40) unit multifamily rental housing development known as River Valley Apartments and located at the Property (the “Project”);

WHEREAS, the Project will be developed, constructed, and operated for the purpose of providing housing to income eligible persons under the federal low-income housing tax credit program in 26 U.S.C. § 42;

WHEREAS, the Project will be subject to an extended use agreement under 26 U.S.C. § 42 (the “Extended Use Agreement”) as administered by the Indiana Housing and Community Development Authority (“IHCDA”) for a period of at least thirty (30) years;

WHEREAS, pursuant to the Extended Use Agreement, the Project will only be permitted to rent to residents whose incomes average sixty percent 60% or less of the area median gross income (the “Restricted Residents”);

WHEREAS, pursuant to the Extended Use Agreement, the Project will be limited to charging rents as determined in accordance with the IHCDA Extended Use Agreement and from-time-to-time by the United States Department of Housing and Urban Development (the “Restricted Rents”);

WHEREAS, the Owner will qualify as a “property owner” under I.C. 36-1-8-14.3(d);

WHEREAS, the Owner has agreed to make certain payments in lieu of taxes, and the City and Owner desire to document that agreement in a written agreement (the “PILOT Agreement”);

WHEREAS, the City is authorized to enter into the PILOT Agreement pursuant to I.C. 36-1-8-14.3 et seq.;

WHEREAS, pursuant to I.C. 36-1-8-14.3(e), subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under I.C. 6-1.1-10-16.7;

WHEREAS, pursuant to I.C. 6-1.1-10-16.7, for assessment dates after December 31, 2021, all or part of real property is exempt from property taxation if the owner of the property has entered into an agreement to make payments in lieu of taxes under I.C. 36-1-8-14.3;

WHEREAS, the PILOTS must be calculated so that the PILOTS are in an amount that is: (1) agreed upon by the property owner and the governing body of the political subdivision; (2) a percentage of the property taxes that would have been levied by the governing body for the political subdivision upon the real property if the property were not subject to an exemption from property taxation; and (3) not more than the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property if the property were not subject to an exemption from property taxation; and

WHEREAS, the form of PILOT Agreement is attached to this Ordinance as Exhibit B.

NOW THEREFORE, BE IT ORDAINED by the Council of the City as follows:

Section 1. The above recitals are incorporated herein by reference as though set forth fully herein below.

Section 2. As more specifically provided in accordance with the form of PILOT Agreement, the Council hereby approves PILOTS for the Property as follows:

Owner shall pay City the sum of \$10,000 per year if the Vigo County Assessor's Office determines the assessed value of the Property is an amount up to \$1,200,000. If the Vigo County Assessor's Office determines the assessed value of the Property exceeds \$1,200,000 in any year for the Property while this Ordinance and the PILOT Agreement are effective, then the Owner shall pay the city the sum of \$10,000 per year. The PILOTS shall not be payable by the Owner during any time period in which (i) the Property is vacant land, (ii) no improvements have been constructed by the Owner upon the Property, and (iii) the improvements constructed upon the Property have not been accepted by the City for occupancy. Furthermore, the PILOTS shall not be payable by the Owner until such time as the Project has achieved stabilized occupancy for a period of at least 24 months or May 10, 2028, whichever occurs first.

Section 3. The Council hereby authorizes and approves the form of the PILOT Agreement and authorizes its execution and delivery by the Mayor on behalf of the City substantially in the form attached hereto and incorporated herein by reference as Exhibit B, all for the purposes contemplated herein.

Section 4. The City Clerk is hereby directed to record an executed copy of this Ordinance, as approved, and a copy of the executed PILOT Agreement with the Vigo County Recorder's Office and file the recorded Ordinance and PILOT Agreement with the City Controller's Office, the Vigo County Assessor's Office, the Vigo County Auditor's Office, and the Vigo County Treasurer's Office.

Section 5. The Council hereby requests, authorizes and directs the Mayor, Council President and the City Clerk, and all official officers, members, employees and agents of the City, and each of them, for and on behalf of the City, to negotiate, prepare, execute and deliver any and all other instruments, letters, certificates, agreements and documents as are determined to be necessary or appropriate to consummate the transactions contemplated by this Ordinance, and such determination shall be conclusively evidenced by the execution thereof. The instruments, letters, certificates, agreements, and documents necessary or appropriate to consummate the transactions contemplated by this Ordinance shall, upon execution, as contemplated herein, constitute the valid and binding obligations or representations and warranties of the City, the full performance and satisfaction of which by the City is hereby authorized and directed.

Section 6. This Ordinance shall be in full force and effect from and after its adoption and the procedures required by law. This Ordinance remains in full force and effect until repealed or modified by the Council, subject to the approval of the Owner.

Presented by Council Member, Anthony Dinkel, Councilperson
WITHDRAWN

EXHIBIT A

Property

The Land referred to herein below is situated in the County of Vigo, State of Indiana, and is described as follows: Lot 1 in VITA Student Housing, Vigo County, Indiana, as per plat thereof recorded July 28, 2017, as Instrument Number 2017007453, in the Office of the Recorder of Vigo County, Indiana.

(For Reference Only) Property Address: 1325 North 4th Street, Terre Haute, IN 47807

(For Reference Only) Tax Parcel ID No.: 84-06-16-404-002.000-002

APPROPRIATION 25, 2024 – \$250,000.00 from ARPA #0199 to Goodwill Excel Center, #0199-0006-03-439409 <Loudermilk>

APPROPRIATION 25, 2024, previously tabled on May 9, 2024, was read by digest. Motion was made by Councilperson Nation and seconded by Councilperson Chalos to pass APPROPRIATION 25, 2024. Motion carried. APPROPRIATION NO. 25, 2024

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2024.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

		AMOUNT REQUESTED	AMOUNT APPROPRIATED
FROM:	ARPA #0199	\$250,000.00	\$250,000.00
TO:	Goodwill Excel Center #0199-0006-03-439409	\$250,000.00	\$250,000.00
	TOTAL	\$250,000.00	\$250,000.00

Introduced by: Cheryl Loudermilk, Councilperson
Passed in open Council this 6th day of June, 2024.
Tammy Boland, President
ATTEST: Michelle L. Edwards, City Clerk
Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.
Michelle L. Edwards, City Clerk
Approved by me, the Mayor this 6th day of June, 2024.
Brandon C. Sakbun, Mayor
ATTEST: Michelle L. Edwards, City Clerk

**No Tax Abatements for Confirmation
Items on Second Reading**

GENERAL ORDINANCE 4, 2024 - Amending City Code, Chapter 7, Article 2, Responsible Bidder <Boland>

GENERAL ORDINANCE 4, 2024 was read by digest. Motion was made by Councilperson Dinkel and seconded by Councilperson Chalos to pass GENERAL ORDINANCE 4, 2024. Motion carried.

GENERAL ORDINANCE 4, 2024

AN ORDINANCE AMENDING CHAPTER 7 ARTICLE 2 OF THE TERRE HAUTE CITY CODE RELATING TO RESPONSIBLE BIDDERS.

SECTION 1. Terre Haute City Code, Chapter 7, Article 2. Responsible Bidder is hereby amended by deleting all of the current text and replacing it with all of the text as follows:

...

ARTICLE 2. RESPONSIBLE BIDDER.

- Sec. 7-80 Purpose.
- Sec. 7-81 Applicability.
- Sec. 7-82 Criteria.
- Sec. 7-83 Post-Bid Submissions from Contractors.
- Sec. 7-84 Validity of Pre-Qualification Classification.
- Sec. 7-85 Incomplete Submissions by Bidders.
- Sec. 7-86 Responsive and Responsible Bidder Determination.
- Sec. 7-87 Certified Payroll.
- Sec. 7-88 Public Records.
- Sec. 7-89 Penalties for False, Deceptive, or Fraudulent Statements/Information.
- Sec. 7-90 Lowest Bidder Not Chosen.
- Sec. 7-91 Multiple Low Bids.
- Sec. 7-92 Conflicting Ordinances.
- Sec. 7-93 through Sec. 7-94 Reserved for Future Use.

...

ARTICLE 2. RESPONSIBLE BIDDER.

Sec. 7-80 Purpose.

The Responsible Bidder Ordinance shall serve to define the term "responsive and responsible" as used in Indiana Code § 36-1-12-4, regarding competitive bidding.

Sec. 7-81 Applicability.

This Article of the Terre Haute City Code shall apply when:

- a. The City is seeking a contract or service to perform public work. Public work, in this context, means the construction, reconstruction, alteration, or renovation of a public building, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by the City under a lease containing an option to purchase; and
- b. The cost of the contract or service will be at least one-hundred fifty thousand dollars (\$150,000.00).

Sec. 7-82 Criteria.

A "responsive and responsible bidder" shall meet all the bid and contract specifications, and shall:

- a. Affirm compliance with all applicable laws pre-requisite to doing business in Indiana. Additionally, Contractors proposing to submit bids on any City of Terre Haute ("City") project estimated to be at least one-hundred fifty thousand or more, in order to be considered a "responsible bidder" prior to the opening of bids, shall submit a statement made under oath and subject to perjury laws, on a form designated by the City and must include:
 - b. Produce evidence of a federal employer taxpayer identification number or social security number (for sole proprietors);
 - c. Confirm that bidder shall not discriminate against an employee or applicant for employment because of race, color, religion, sex, national origin, gender identity, sexual orientation or disability and that the bidder shall ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex or national origin, gender identity, sexual orientation or disability.

- d. Confirm that bidder has not been found in violation of any federal, state or local law, ordinance or regulation with regard to an employee or applicant for employment because of race, color, religion, sex, national origin, gender identity, sexual orientation or disability within the last three (3) years.
- e. Provide the City with certificates of insurance indicating the coverage, when such is required in the bid or contract specifications.
- f. Affirm, where worker's compensation insurance is required under the bid specifications, that all employees are (1) covered under a current worker's compensation insurance policy and (2) properly classified under such policy; and also, where worker's compensation insurance is required under the bid specification, submit a copy of the "declarations page(s)" of the contractor's worker's compensation insurance policy if the contractor is insured with a carrier, and any continuation of the worker's compensation insurance "declarations page(s)" which includes the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code; and, upon the City's request, submit a copy of any worker's compensation insurance annual premium audit documents.
- g. Indicate whether the bidder has been found in violation of any Indiana or federal laws regarding wage rates and wage payments including, but not limited to, the federal Davis Bacon Act, by the U.S. Department of Labor, the Indiana Department of Labor, an Indiana State Court or a U.S. District Court within the three (3) years preceding the submission of its bid on the public works project; 7-28 and provide any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts;
- h. Submit proof of any professional or trade license required by law for any trade or specialty area in which a bidder is seeking a contract award; and disclose any suspension or revocation within the previous five (5) years of any professional trade license held by the company, or of any director, officer, or manager employed by bidder;
- i. At the time of submitting the bid, disclose the name and address of each subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the project, and disclose the amount of each subcontractor's bid to the general contractor; each subcontractor who will perform work valued in excess of the threshold set forth in Section 7-81(b) of this Article shall be required to adhere to the submission requirements set forth herein as though it were bidding directly to the City of Terre Haute, and must file the appropriate required documents at least five (5) days prior to commencement of work by the subcontractor;
- j. State that individuals who will perform work on the public works project on behalf of the contractor are properly classified as either (1) an employee or (2) an independent contractor under all applicable state and federal laws and local ordinances;
- k. Provide a copy of the bidder's written plan for employee drug testing that: (1) covers all employees of the bidder who will perform work on the public work project; and (2) meets, or exceeds, the requirements set forth in Indiana Code§ 4-13-18-5 or Indiana Code§ 4- 13-18-6
- l. A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply;
- m. A list identifying all former business names;
- n. A statement on staffing capabilities, including labor sources;
- o. Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five(5) apprentices in each of the past five (5) years for each of the construction crafts the bidder

will perform on the project. Evidence of graduation rates are not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the public works project. The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. Additional evidence of participation and graduation requirements may be requested by the City Council at its discretion.

p. The name and description of the management experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;

q. Evidence that the bidder is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;

r. A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last ten (10) years;

s. A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due; and

t. For contracts estimated to cost at least three hundred thousand dollars (\$300,000.00), certification that the bidder and all subcontractors are qualified under IC 4-13.6-4 or IC 8-23-10.

u. A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

The City reserves the right to demand supplemental information from the bidder, additional verification any of the information provided by the bidder, and may conduct random inquiries of the bidder's current and prior customers.

Sec. 7-83 Post-Bid Submissions from Contractors.

Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the City Engineering Department prior to the subcontractor's first day of work on the public works project.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by City. Additionally, City may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the City written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

Sec. 7-84 Validity of Pre-Qualification Classification.

Upon designation by City that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by City, the bidder or subcontractor may be pre-qualified for future City public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of

pre-qualified standing, on a form provided by City, (i.e. a "short form") by December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of pre-qualified standing shall result in automatic removal of the designation effective January 1 of the upcoming year. However, the removed bidder or subcontractor shall still be permitted to bid on or perform work on City public works projects.

Any material changes to a contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to City. The pre-qualification designation is solely within the discretion of City and City specifically reserves the right to change or revoke the designation for a stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to City within five (5) business days of receipt of notice of denial.

Sec. 7-85 Incomplete Submissions by Bidders.

It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by City shall result in the automatic disqualification of the bid.

Sec. 7-86 Responsive and Responsible Bidder Determination.

After its review of complete and timely submissions, taking into account all information in the submission requirements, City shall in its sole discretion, determine whether a bidder or subcontractor is responsive and responsible. City reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by City through its own independent verification of the information provided.

Sec. 7-87 Certified Payroll.

For projects in which the cost is at least one-hundred fifty thousand dollars (\$150,000), the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to City within ten (10) calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

City may withhold payment due for work performed by a successful bidder or subcontractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. City shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or one or more other subcontractors to timely submit their certified payroll reports.

Sec. 7-88 Public Records.

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-3).

Sec. 7-89 Penalties for False, Deceptive, or Fraudulent Statements/Information.

Any bidder or subcontractor that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to City shall be disqualified from bidding or working on all City projects for a period of three (3) years.

Sec. 7-90 Lowest Bidder Not Chosen.

When a contract is awarded to a bidder other than the lowest bidder, a statement of the reasons for such award shall be prepared by City Legal in conjunction with the City Board or Entity awarding the contract.

Sec. 7-91 Multiple Low Bids.

When two (2) or more responsive and responsible bidders submit the same low bid, the contract shall be granted to the bidder whose headquarters are geographically closest to the City of Terre Haute's Corporation Boundary. If both low bidders are headquartered within the City of Terre Haute, the winning bid shall be determined by drawing lots in a public meeting of the Board of Public Works and Safety.

Sec. 7-92 Conflicting Ordinances.

Any ordinance or provision of any ordinance in conflict with the provisions of this Ordinance is hereby repealed.

Sec. 7-93 through Sec. 7-94 Reserved for Future Use.

...

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Tammy Boland, Councilperson

Passed in open Council this 6th day of June, 2024.

Tammy Boland, President

ATTEST: Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor this 6th day of June, 2024.

Brandon C. Sakbun, Mayor

ATTEST: Michelle L. Edwards, City Clerk

ITEMS ON FIRST READING

Appropriations

APPROPRIATION 28, 2024 - \$1,000,000.00 from Community Crossings Grant #0492 to Paving, #0492-0000-03-432105 <Loudermilk>

APPROPRIATION 28, 2024 was read by digest. Motion was made by Councilperson Loudermilk and seconded by Councilperson Hinton to take action on APPROPRIATION 28, 2024. Motion carried unanimously. Motion was made by Councilperson Loudermilk and seconded by Councilperson Hinton to pass APPROPRIATION 28, 2024. Motion carried.

APPROPRIATION NO. 28, 2024

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2024.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

	AMOUNT REQUESTED	AMOUNT APPROPRIATED
FROM: Community Crossings Grant #0492	\$1,000,000.00	\$1,000,000.00
TO: Paving #0492-0000-03-432105	\$1,000,000.00	\$1,000,000.00
TOTAL	\$1,000,000.00	\$1,000,000.00

Introduced by: Cheryl Loudermilk, Councilperson

Passed in open Council this 6th day of June, 2024.

Tammy Boland, President

ATTEST: Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor this 6th day of June, 2024.

Brandon C. Sakbun, Mayor

ATTEST: Michelle L. Edwards, City Clerk

APPROPRIATION 29, 2024 - \$9,000.00 from Clerks Record Perpetuation #0236 to Services Contractual, #0236-0026-03-432010 <Loudermilk>

APPROPRIATION 29, 2024 was read by digest. Motion was made by Councilperson Chalos and seconded by Councilperson Loudermilk to take action on APPROPRIATION 29, 2024. Motion carried unanimously. Motion was made by Councilperson Chalos and seconded by Councilperson Loudermilk to pass APPROPRIATION 29, 2024. Motion carried.

APPROPRIATION NO. 29, 2024

AN ORDINANCE TO APPROPRIATE AN ADDITIONAL SUM OF MONEY FOR EXPENSES INCURRED DURING THE YEAR 2024.

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore:

BE IT ORDAINED by the Common Council of the City of Terre Haute, Vigo County, Indiana, that for the expenses of said municipal corporation the following additional sum of money is hereby appropriated and ordered set apart out of the fund herein named and for the purposes herein specified, subject to the laws governing the same:

	AMOUNT REQUESTED	AMOUNT APPROPRIATED
FROM: Clerks Record Perpetuation #0236	\$9,000.00	\$9,000.00
TO: Services Contractual #0236-0026-00-03-432010	\$9,000.00	\$9,000.00
TOTAL	\$9,000.00	\$9,000.00

Introduced by: Cheryl Loudermilk, Councilperson
Passed in open Council this 6th day of June, 2024.
Tammy Boland, President
ATTEST: Michelle L. Edwards, City Clerk
Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.
Michelle L. Edwards, City Clerk
Approved by me, the Mayor this 6th day of June, 2024.
Brandon C. Sakbun, Mayor
ATTEST: Michelle L. Edwards, City Clerk

General Ordinances

GENERAL ORDINANCE 6, 2024 - Amending City Code, Chapter 1, Section 1-13, City Flag <Nation>

GENERAL ORDINANCE 6, 2024 was read by digest. Motion was made by Councilperson Nation and seconded by Councilperson DeBaun to take action on GENERAL ORDINANCE 6, 2024. Motion carried unanimously. Motion was made by Councilperson Nation and seconded by Councilperson DeBaun to pass GENERAL ORDINANCE 6, 2024. Motion carried.

GENERAL ORDINANCE NO. 6, 2024

AN ORDINANCE AMENDING CHAPTER 1, SECTION 1-13, TO ADOPT A NEW CITY OF TERRE HAUTE FLAG.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute as follows:

Section 1. Terre Haute City Code Chapter 1, Section 1-13 is hereby amended by adding the underlined text and removing the stricken text as follows:

Sec. 1-13 City Flag.

- a. The City of Terre Haute desires to adopt a flag in honor of the National Bicentennial celebration and to be displayed at the Banks of the Wabash Festival new city flag to better establish the Flag as a source of pride for the Community.
- b. A flag contest was held immediately prior to the opening of the first Banks of the Wabash Festival in which entries were submitted and judged and the winner of said contest was Ronald Goetz of Terre Haute in which entries were submitted and a public vote was conducted to ensure no individuals could cast more than one vote through the verification of computer IP addresses and the winner of said contest was Kristin Toney of Terre Haute, Indiana.
- c. The City of Terre Haute desires to adopt the flag submitted by Ronald Goetz Kristin Toney as the official flag of the City of Terre Haute a copy of which is marked "Exhibit A" and is on file in the office of the City Clerk and available for public inspection during regular business hours.
- d. The official flag is illustrated by a blue stripe in the middle representing the Wabash River and a sycamore leaf, orange and yellow in color, representing the sycamore trees located along the Wabash and also contains the symbol of a torch surrounded by stars as depicted in the official flag of the State of Indiana said flag having a white background. described as follows:
The sycamore leaf in the middle of the flag symbolizes the sycamore trees that grow along the Wabash River that Terre Haute is known for. The intersection lines represent our status as the Crossroads of America, and the 19 stars represent Indiana's placement as the 19th state. The gold and blue mimic Indiana's State colors but the blue also represents the Wabash River while the gold represents quality, wealth, and good fortunes. The white represents hope, openness, and new beginnings, which we all wish for our community.
- e. The City of Terre Haute, wishes to commend and express its gratitude to Ronald Goetz for the design of said flag.

f. The Common Council of the City of Terre Haute, Indiana adopts the above described flag as the official flag for the City of Terre Haute.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Todd Nation, Councilperson

Passed in open Council this 6th day of June, 2024.

Tammy Boland, President

ATTEST: Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor this 6th day of June, 2024.

Brandon C. Sakbun, Mayor

ATTEST: Michelle L. Edwards, City Clerk

GENERAL ORDINANCE 7, 2024 - Amending City Code, Chapter 9, Article 7, Sections 9-130 through 9-151, Illicit Connections and Discharge Regulations and Chapter 9, Article 8, Sections 9-160 through 9-181, Construction Site and Post-Construction Site Stormwater Control <Dinkel>

GENERAL ORDINANCE 7, 2024 was ready by digest. Motion was made by Councilperson Nation and seconded by Councilperson Dinkel to take action on GENERAL ORDINANCE 7, 2024. Motion carried unanimously. Motion was made by Councilperson Nation and seconded by Councilperson Dinkel to pass GENERAL ORDINANCE 7, 2024. Motion carried.

GENERAL ORDINANCE 7, 2024

AN ORDINANCE TO PROHIBIT THE CONNECTION OF NON-STORMWATER DISCHARGES TO THE STORMWATER SYSTEM.

WHEREAS, the City of Terre Haute, Indiana (City) has constructed and has in operation a stormwater collection system for the purpose of collecting stormwater within its jurisdiction; and

WHEREAS, new requirements for stormwater quality affect the City directly resulting from the Federal Stormwater Phase II NPDES permit program administered by the Indiana Department of Environmental Management (IDEM) with the adoption of the Construction Stormwater General Permit (CSGP) for Stormwater Run-Off Associated with Construction Activity and the Municipal Separate Storm Sewer System General Permit (MS4 GP) for Stormwater Run-Off under control of the MS4-designated entities, including the City of Terre Haute ; and

WHEREAS, MS4 GP requires the City to adopt an ordinance or other local regulatory mechanism prohibiting illicit discharges into the stormwater conveyance system and establish appropriate enforcement procedures and actions; and

WHEREAS, the creation of a new stormwater management program could help address stormwater management problems; and

WHEREAS, the City operates its stormwater system under the provisions of I.C. § 36-9-25;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana as follows:

SECTION 1. The Terre Haute City Code, Chapter 9, Article 7, is hereby amended by the removal of the current language and the insertion of the following provisions:

ARTICLE 7. ILLICIT CONNECTIONS AND DISCHARGE REGULATION.

Sec. 9-130 Purpose/Intent.

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City of Terre Haute, Indiana through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- a. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- b. To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- c. To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with this Article.

Sec. 9-131 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

- a. Authorized Enforcement Agency. The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.
- b. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- c. Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.
- d. Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more, as defined in CSGP, and other land disturbing activities that increase the likelihood of erosion. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. This term does not include routine ditch maintenance, road maintenance that does not result in exposure of the subsoil, or minor landscaping projects.
- e. Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- f. Illegal Discharge. Any discharge to a MS4 conveyance that is not composed entirely of stormwater, except as exempted in Section 9-135 of this Article and naturally introduced floatables, such as leaves or tree limbs. Sources of illicit discharges include but is not limited to sanitary wastewater, septic tank effluent, commercial car wash wastewater, oil spills or disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, pollutant run-off, and household hazardous wastes.
- g. Illicit Connections. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Authorized Enforcement Agency.

h. Industrial Activity. Activities subject to NPDES Industrial Stormwater Permits as defined in 327 IAC 15-6 and the Industrial Stormwater General Permit, upon its adoption by IDEM.

i. Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Terre Haute and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

j. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable to an individual, group, or general area-wide basis.

k. Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

l. Outfall. A point source discharge via a conveyance of stormwater run-off into a receiving stream or other body of water.

m. Person. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

n. Pollutant. Any substance which causes or contributes to pollution or causes an alteration of the quality of the waters of the state. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

o. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

p. Storm Drainage System. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

q. Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

r. Stormwater Pollution Prevention Plan. A document which describes Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the Maximum Extent Practicable.

s. Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Sec. 9-132 Applicability.

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Authorized Enforcement Agency.

Sec. 9-133 Responsibility for Administration.

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City of Terre Haute, through the Board of Public Works and Safety, to persons or entities in the beneficial interest of or in the employ of the City.

Sec. 9-134 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

Sec. 9-135 Discharge Prohibitions.

a. Prohibition of Illegal Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Article: water line and hydrant flushing or other potable water sources, landscaping irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps (uncontaminated), uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids, springs, residential car washing, non-commercial car washing by community organizations, natural riparian habitat or wetland flows, dechlorinated/debrominated residential swimming pool discharges (typically less than one part per million chlorine), pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used, external building washdown without using detergents and any other water source not containing pollutants.

2. Discharges or flow from fire suppression activities and other discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the Authorized Enforcement Agency prior to the time of the test.

4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency or the Indiana Department of Environmental Management, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

b. Prohibition of Illicit Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection is permissible under law or practices applicable or prevailing at the time of the connection.

3. A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

4. Improper connections in violation of this Article must be disconnected and redirected, as necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Authorized Enforcement Agency.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Authorized Enforcement Agency requiring that such locating be completed. Such notice shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Authorized Enforcement Agency.

Sec. 9-136 Suspension of MS4 Access.

a. Suspension Due to Illicit Discharges in Emergency Situations. The Authorized Enforcement Agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the state, or to minimize danger to persons.

b. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Authorized Enforcement Agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Authorized Enforcement Agency.

c. Emergency Cease and Desist Orders. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has/have caused or contributed to an actual or threatened discharge to the MS4 or waters of the statewaters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the

Authorized Enforcement Agency may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Authorized Enforcement Agency may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Authorized Enforcement Agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Authorized Enforcement Agency within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Sec. 9-137 Industrial or Construction Activity Discharges: Submission of NOI.

a. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4.

b. The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with construction or industrial activity shall submit prior notice to the Authorized Enforcement Agency that they intend to submit Notice of Intent to discharge under the applicable stormwater general permit to the IDEM. The operator of the facility must submit a copy of the Notice of Sufficiency or Notice of Deficiency to the Authorized Enforcement Agency within 48 hours of receipt of the notice.

c. The prior notice of the Notice of Intent submittal and the copy of the Notice of Sufficiency or Deficiency may be delivered to the Authorized Enforcement Agency either in person or by mailing it to:

City of Terre Haute Wastewater Utility
Re: Notice of Intent to Discharge Stormwater
3200 State Road 63
Terre Haute, IN 47802

d. A person commits an offense if the person operates a facility that is regulated under a stormwater general permit and is discharging stormwater associated with industrial or construction activity without having submitted a copy of the Notice of Intent to do so to the Authorized Enforcement Agency.

Sec. 9-138 Monitoring of Discharges.

a. Applicability. This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

b. Access to Facilities.

1. The Authorized Enforcement Agency shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force, which require proper identification and clearance

before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.

2. Facility operators shall allow the Authorized Enforcement Agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

3. The Authorized Enforcement Agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The Authorized Enforcement Agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Authorized Enforcement Agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a stormwater discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Authorized Enforcement Agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

7. If the Authorized Enforcement Agency has been refused access to any part of the premises from which the stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community or the environment, then the Authorized Enforcement Agency may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 9-139 Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state of Indiana. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 9-140 Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute,

contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 9-141 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Authorized Enforcement Agency in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Authorized Enforcement Agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Sec. 9-142 Violations and Enforcement.

a. Violations. It shall be a violation for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article may be subject to the enforcement actions outlined in this Article or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the Authorized Enforcement Agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Authorized Enforcement Agency is authorized to seek costs of the abatement as outlined in Sec. 9-145.

b. Warning Notice. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Authorized Enforcement Agency may serve upon that person a written Warning Notice. Such Warning Notice shall specify the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Authorized Enforcement Agency to take any action, including emergency action or any other enforcement action, without issuing a Warning Notice.

c. Notice of Violation. Whenever the Authorized Enforcement Agency finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Authorized Enforcement Agency may order compliance by written Notice of Violation to the responsible person. Emergency notifications may be made by an authorized employee. The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address, when available, or description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

6. A statement that the determination of violation may be appealed to the Authorized Enforcement Agency by filing a written notice of appeal within five (5) days of service of notice of violation; and

7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

d. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Sec. 9-143 Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination before the Board of Public Works and Safety. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Board of Public Works and Safety shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Board of Public Works and Safety shall be final.

Sec. 9-144 Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Board of Public Works and Safety, the representatives of the Authorized Enforcement Agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agency or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

Sec. 9-145 Cost of Abatement of the Violation.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the Board of Public Works and Safety or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec. 9-146 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Sec. 9-147 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Sec. 9-148 Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to the environment or public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec. 9-149 Civil Penalty.

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day.

The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

Sec. 9-150 Criminal Prosecution.

Any person that has violated or continues to violate this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to applicable criminal penalties per violation per day and/or imprisonment as provided by law. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Sec. 9-151 Remedies Not Exclusive.

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

SECTION 2. The Terre Haute City Code, Chapter 9, Article 8, is hereby amended by the removal of the current language and the insertion of the following provisions:

ARTICLE 8. CONSTRUCTION SITE AND POST-CONSTRUCTION SITE STORMWATER CONTROL.

Sec. 9-160 Purpose/Intent.

a. Site Construction Control. The purpose of this Article is to establish requirements for stormwater discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (1) To regulate construction activities disturbing more than one (1) acre of land as governed by Construction Stormwater General Permit (CSGP) ; and

- (2) To require construction site operators to develop and implement a Construction Plan including a Stormwater Pollution Prevention Plan in order to receive a Land disturbance permit from the City.
- (3) Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels.
- (4) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.
- (5) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
- (6) Reduce stormwater runoff rates and volumes, soil erosion, and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

b. Post-Construction Control. The purpose of this Article is to implement planning procedures that promote and improve water quality. The planning procedures shall include, at a minimum, the post-construction requirements of CSGP Section 3.2(a)(9)A-D. The City may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants in stormwater run-off. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

- (1) Buffer strip and riparian zone preservation;
- (2) Filter strip creation;
- (3) Minimization of land disturbance and surface imperviousness;
- (4) Minimization of directly connected impervious areas;
- (5) Maximization of open space; and
- (6) Direct the community's growth away from sensitive areas and towards areas that can support the growth without compromising water quality.

Sec. 9-161 Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article. Additional definitions for terms contained within this Article are provided in Sec. 9-131. Also incorporated by reference are all definitions found in the CSGP.

a. Authorized Enforcement Agency. The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.

b. Best Management Practices (BMPs). Structural or nonstructural practices, or a combination of practices, designated to act as effective, practicable means of minimizing the impacts of development and human activities on water quality. Traditional structural BMPs, including extended detention dry ponds, wet pond, infiltration measures, sand filtration systems, etc., are now common elements of most new development projects. Structural BMPs rely heavily on gravitational settling and/or the infiltration of soluble nutrients through a porous medium for pollutant removal. Nonstructural BMPs, which may be used independently or in conjunction with structural BMPs range from programs that increase public awareness to prevent pollution, to the implementation of control-oriented techniques (such as bioretention and stormwater wetlands) that utilize vegetation to enhance pollutant removal and restore the infiltrative capacity of the landscape.

c. Construction Plan. A written plan that: (1) presents information about a construction project and activities associated with the construction project; (2) includes a storm water pollution prevention plan that outlines how erosion and sedimentation will be controlled on the site of the construction project; and (3) must be submitted to a review authority as a condition of proceeding with the construction project under the general permit rule program established under CSGP.

- d. Construction Site Access. A stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.
- e. Contractor and or Subcontractor. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services in the project site.
- f. Developer. Any person financially responsible for construction activity; or an owner of property who sells or leases, or offers for sale or lease any lots in a subdivision.
- g. Erosion. Detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
- h. Erosion and Sediment Control. A practice, or a combination of practices, to control erosion and resulting sedimentation associated with construction activity.
- i. Grading. The cutting and filling of the land surface to a desired slope or elevation.
- j. Hotspot. An area where the land use or activities are considered to generate runoff with concentrations of pollutants in excess of those typically found in stormwater.
- k. Impervious Surface. Surfaces, such as pavement and rooftops, that prevent the infiltration of stormwater into the soil.
- l. Indiana Storm Water Quality Manual. A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.
- m. Infiltration Measure. Practices that capture and temporarily store the design storm volume before allowing it to infiltrate into the soil. These practices include infiltration trenches, infiltration basins, dry wells, and underground infiltration practices.
- n. Land Disturbance or Land Disturbing Activity. Any man-made change of the land surface, including, but not limited to, removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
- o. Measurable Storm Event. A precipitation event that results in a total measured precipitation accumulation equal to or greater than, one-half inch (0.5”) of rainfall.
- p. Project Site. The entire area on which construction activity is to be performed.
- q. Project Site Owner/Operator. The person required to submit the NOI letter through the IDEM ePortal and is required to comply with the provisions of this Article, including either of the following:
- (1) A developer; or
 - (2) A person or entity that has financial and operational control of construction activities and project plans and specifications, including the authority to approve expenditure of funds and the ability to make modifications to those plans and specifications.
- r. Sediment. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its place of origin by air, water, gravity, or ice and has come to rest on the earth’s surface.
- s. Storm Drainage System. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm

drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

t. Subdivision. Any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

u. Technical Review and Comment Form. A form issued by the Authorized Enforcement Agency stating that the Stormwater Pollution Prevention Plan (SWPPP) is adequate or stating revisions needed in the SWPPP.

v. Trained Individual. An individual who is trained and experienced in the principles of stormwater management, including erosion and sediment control as is demonstrated by completion of coursework, state registration, professional certification, or annual training that enable the individual to make judgments regarding stormwater management, treatment, and monitoring.

w. Waters of the States. The accumulations of water, surface and underground, natural and artificial, public and private, or a part of the accumulations of water that are wholly or partially within, or flow through, or border upon Indiana. The term does not include private ponds, or ponds, reservoirs, or facilities built for the reduction or control of pollution or cooling water before discharge, unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

Sec. 9-162 Applicability.

a. This Article covers any new development or re-development construction site resulting in the disturbance of one (1) acre or more of total land area and other types of development specified in Sec. 9-172 regardless of the disturbed area. Persons must meet the applicability requirements under CSGP. This Article also applies to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land within the corporate limits of the City. ...

b. All terms, conditions, definitions, and other measures defined in CSGP shall apply except for state permitting process references and submittal deadlines of Construction Plans.

c. This Article does not apply to persons who obtain an individual NPDES permit under CSGP Section 7.6.

d. This Article does not apply to the Indiana Department of Transportation when it conducts its business within the City's corporate limits under its NPDES permit under CSGP Section 2.2 or Section 7.6 and the Indiana State University, which has its own MS4 permit.

e. This Article does not apply to the following types of activities:

(1) Agricultural land disturbance activities;

(2) Forest harvesting activities.

f. This Article does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(1) Landfills that have been issued a certification of closure under CSGP Section 2.2-5-(A).

(2) Coal mining activities permitted under CSGP Section 2.2-5-(B).

(3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under CSGP Section 2.2-5-(c) that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

Sec. 9-163 Responsibility for Administration.

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City through the Board of Sanitary Commissioners to persons or entities in the beneficial interest of or in the employ of the City.

Sec. 9-164 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

Sec. 9-165 Responsibility of Construction Site Owner.

a. The project site owner has the following responsibilities:

- (1) Ensure that, prior to the initiation of any land disturbing activities, a sufficient Construction Plan is completed and submitted to the Authorized Enforcement Agency and approved by the Authorized Enforcement Agency as discussed in Sec. 9-166 of this Article.
- (2) Complete and submit to the Authorized Enforcement Agency and the Indiana Department of Environmental Management (IDEM) a sufficient Notice of Intent (NOI) letter and notification from Authorized Enforcement Agency indicating the Construction Plans are sufficient to comply with the requirements of CSGP.
- (3) Make application for a Land disturbance permit and any other permits required by the City in accordance with procedures established by the City.
- (4) Ensure compliance with this Article during:
 - (a) the construction activity; and
 - (b) implementation of the Construction Plan.
- (5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Article and the approved Construction Plan.
- (6) Provide the Authorized Enforcement Agency and IDEM with a sufficient Notice of Termination (NOT) letter submitted through IDEM's ePortal, in compliance with the requirements of CSGP.

b. For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

c. For an individual lot where land disturbance is expected to be one (1) acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

- (1) Ensure that, prior to the commencement of any land disturbing activity, a sufficient Construction Plan is completed and submitted to and approved by the Authorized Enforcement Agency;
- (2) Complete his or her own Notice of Intent (NOI) letter and submit it to the Authorized Enforcement Agency and IDEM;

(3) Apply for a Land disturbance permit and any other permits required by the City in accordance with the procedures established by the City.

d. For an individual lot where the land disturbance is less than one (1) acre and the lot lies within a project site permitted under this rule, submittal of a Notice of Intent (NOI) letter and Construction Plan shall not be required. The individual lot operator shall:

(1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the City;

(2) Comply with the provisions set forth in Sec. 9-168 of this Article; and

(3) Apply for a Land disturbance permit and any other permits required by the City in accordance with the procedures established by the City.

Sec. 9-166 Construction Plan Submittal, Review and Approval.

a. A complete Stormwater Pollution Prevention Plan and erosion and sediment control plan shall be submitted to the Authorized Enforcement Agency for approval. At the time of submittal, the date and time will be recorded.

b. The sufficiency of the Construction Plan shall be based upon CS GP regulations, the design criteria described in the current City of Terre Haute Standards and Specifications, and the design criteria described in the current Indiana Storm Water Quality Manual, as revised and amended from time to time.

c. Each applicant shall bear the name(s) and address(es) of the owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

d. Each application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the submitted SWPPP .

e. The Authorized Enforcement Agency will review each submitted SWPPP to determine its conformance with the provisions of this regulation and CS GP. Based on this review, the Authorized Enforcement Agency shall, in writing:

(1) Approve the erosion and sediment control plan and SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the Technical Review and Comment Form stating that the "Plan is Adequate";

(2) Provide a Technical Review and Comment Form stating that the "Plan is Deficient" and indicating the reason(s) and procedure for submitting a revised application and/or submission.

f. The Technical Review and Comment Form from the Authorized Enforcement Agency stating that the "Plan is Adequate" and a Land disturbance permit shall be obtained prior to the initiation of any land disturbing activities.

g. Pursuant to IC 13-18-27-16, the Authorized Enforcement Entity shall make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Failure to notify the applicant of the Authorized Enforcement Agency's preliminary determination within the stated deadlines shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by written agreement between the applicant and the Authorized Enforcement Agency.

h. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate", if revisions to the Construction Plan require a change in measures appropriate to control the quality or quantity of stormwater

runoff, then revised plans must be submitted to the Authorized Enforcement Agency and receive the approval of the Authorized Enforcement Agency prior to implementation of the modified plan.

- i. The applicant shall apply for and receive a Land disturbance permit from the Authorized Enforcement Agency.
- j. After receiving a Technical Review and Comment Form stating that the “Plan is Adequate” from the Authorized Enforcement Agency, and the Land disturbance permit as well as any other permits required by the City, and at least forty-eight (48) hours prior to the start of land disturbance, the following shall be submitted to the Authorized Enforcement Agency and IDEM:

- (1) Notice of Intent (NOI) submittal;
- (2) A copy of the Technical Review and Comment Form stating that the “Plan is Adequate”; and
- (3) Proof of Publication as required by CSGP.

Sec. 9-167 Erosion and Sediment Control Requirements.

a. General and Implementation Requirements - The following general and implementation requirements apply to all land-disturbing activities and shall be considered in the preparation of a SWPPP within the corporate boundaries of the City of Terre Haute.

- (1) Trained individuals must be utilized for activities associated with the development and design of the SWPPP, stormwater measure implementation, and stormwater project management.
- (2) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Unless needed to meet requirements and goals of the development, steep slopes should be avoided, and natural contours should be followed.
- (3) All activities on a site should be conducted in a logical sequence and in accordance with the site’s construction phasing plan so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- (4) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included in the IDEM Storm Water Quality Manual.
- (5) Sediment-laden water which otherwise would flow from the project site shall be managed by appropriate erosion and sediment control measures to minimize sedimentation to receiving waters and adjacent properties as discussed in the IDEM Storm Water Quality Manual and other authoritative sources.
- (6) Public roadways and roadways not exclusive to construction traffic shall be kept cleared of accumulated sediment that is a result of runoff or tracking. The following minimum conditions are applicable:
 - (a) Clearing of sediment must not include the utilization of mechanical methods that will result in mobilization of dust off the project site or flushing the area with water unless the flushed water is directed to an appropriate sediment control measure.
 - (b) Cleared sediment must be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
 - (c) Sediment discharged or tracked onto roadways that are open to traffic must be removed as directed by a regulatory authority or at a minimum, removed by the end of the same day.

- (7) Phasing of construction activities must be used, when feasible, to minimize the footprint of disturbed unstable areas.
- (8) Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- (9) Natural features, including wetlands and sinkholes (karst features), shall be protected from pollutants associated with stormwater runoff, through appropriate stormwater management and/or treatment measures.
- (10) Soil compaction is to be minimized, especially in areas where permanent vegetation will be re-established and/or areas that are designated to infiltrate stormwater for the post-construction phase.
- (11) Topsoil must be preserved, unless infeasible.
- (12) Existing natural buffers that are adjacent to waters of the state must be preserved to promote infiltration and provide protection of the water resource, unless infeasible. Activities performed by a county drainage board under IC 36-9-27 are excluded.
- (a) Natural buffers must be preserved, including the entire buffer bordering and/or surrounding the water resource. Existing buffers:
 - i. 50 feet or more in width must be preserved to a minimum of 50 feet.
 - ii. less than 50 feet in width must be preserved in their entirety. May be enhanced with vegetation that is native and promotes ecological improvement and sustainability.
 - (b) Runoff directed to the natural buffer must be:
 - i. treated with appropriate erosion and sediment control measures prior to discharging to the buffer.
 - ii. managed with appropriate runoff control measures to prevent erosion from occurring within the buffer area.
 - (c) Further information regarding buffer requirements is contained in IDEM's "Implementation of Buffers" guidance document.
- (13) Minimize the generation of dust through dust suppression techniques to prevent deposition into waters of the state and areas located beyond the permitted boundaries of the site as discussed in the IDEM Storm Water Quality Manual and other authoritative sources.
- (14) A stable construction site access measure must be provided at all points of construction traffic ingress and egress to the project site. Where the selected measure is not effective, an alternative measure or additional controls must be utilized to minimize tracking. Alternative measures may include, but are not limited to, wheel wash systems and rumble strips.
- (15) During the period of construction activities, all stormwater management measures necessary to meet the requirements of this permit must be maintained. Alternative measures must be selected and implemented, as necessary.
- (16) Discharge water from dewatering of ground water from excavations, trenches, foundations, etc. must not be discharged when:

(a) Sediment-laden water is not first directed to an appropriate sediment control measure or a series of control measures, as per IDEM Storm Water Quality Manual and other authoritative sources, that minimizes the discharge of the sediment.

(b) A visible sheen and/or pollutants are present at a level that requires additional treatment and/or an alternate permit.

(17) Appropriate measures must be implemented to eliminate wastes or unused building materials including, but not limited to garbage, debris, cleaning wastes, wastewater, concrete washout, mortar/masonry products, soil stabilizers, lime stabilization materials, and other substances from being carried from a project site by runoff or wind. Wastes and unused building materials must be managed and disposed of in accordance with all applicable statutes and regulations.

(18) Construction and domestic waste must be managed to prevent the discharge of pollutants and windblown debris. Surplus plastic or hardened concrete/cementitious materials are not required to be placed in trash receptacles and are considered clean fill that may be reused, disposed of on-site, or recycled in accordance with applicable state and federal regulations. Management of waste materials may include, but are not limited to:

(a) Waste containers (trash receptacles), when selected to manage waste, must be managed to reduce the discharge of pollutants and blowing of debris. Receptacles that are not appropriately managed will require alternatives that include but are not limited to:

- i. A cover (e.g., lid, tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation or
- ii. A similarly effective method designed to minimize the discharge of pollutants.

(b) Waste that is not disposed of in trash receptacles must be protected from exposure to the weather and/or removed at the end of the day from the site and disposed of properly.

(19) Concrete and cementitious wash water areas, where cementitious fluids are permissible, must be identified for the site and the locations clearly posted. Wash water must be directed into leak-proof containers or leak-proof containment areas which are located and designed to divert runoff away from the measure and sized to prevent the discharge and/or overflow of the cementitious wash water. If not evaporated, wash water must be removed (pumped) for appropriate off-site disposal.

(20) Fertilizer applications associated with the stabilization plan for the project must meet the following requirements:

(a) Apply fertilizer at a rate and amount as determined by a soil analysis or in accordance with the Indiana Storm Water Quality Manual or similar guidance documents.

(b) Apply fertilizer at an appropriate rate and time of year for the project location (per manufacturer recommendations), taking into consideration proximity to a waterbody, and preferably timed to coincide with the period of maximum vegetative uptake and growth.

(c) Avoid applying fertilizer immediately prior to precipitation events that are anticipated to result in stormwater runoff from the application area.

(21) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures must be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality. To meet this requirement:

(a) A spill prevention and response plan, meeting the requirements in 327 IAC 2-6.1, must be completed.

(b) Proper project management and the utilization of appropriate measures including, but not limited to, eliminating a source or the exposure of materials must be completed.

(c) Manage the following activities:

- i. Fueling and maintenance of equipment.
- ii. Washing of equipment and vehicles.
- iii. Storage, handling, and disposal of construction materials, products, and wastes.
- iv. Application of pesticides, herbicides, insecticides, and fertilizers
- v. Dispensing and utilization of diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals.
- vi. Handling and disposal of hazardous wastes, including, but not limited to paints, solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids.
- vii. Washing of applicators and containers used for paint, grout, or other materials.

(22) The construction shall be undertaken by a City of Terre Haute registered contractor and the personnel associated with the project must be informed of the terms and conditions of this permit and the requirements within the SWPPP. The permittee is required to document this process. Information must be provided through written notification, contracts, or other means (i.e., pre-construction meetings) that effectively communicates the provisions and requirements of the permit and SWPPP. Personnel may include, but are not limited to:

- (a) General contractors, construction management firms, grading or excavating contractors, and trade industry representatives (i.e. concrete industry) associated with the overall project.
- (b) Contractors or individual lot operators that have primary oversight on individual building lots.
- (c) Those responsible for the implementation of the SWPPP, and the installation, repair, and maintenance of stormwater measures.
- (d) Those responsible for the application and storage of treatment chemicals.
- (e) Those responsible for administering the self-monitoring program (SMP).

(23) A notice must be posted near the main entrance of the project site or at a publicly accessible location. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and include:

- (a) A copy of the completed IDEM NOI or a document, such as the Permit Summary Report & Notice of Sufficiency letter produced by IDEM's online ePortal system, that at a minimum contains the following information:
 - i. The project site owner's name, address, telephone number, and email address.
 - ii. A contact person's (if different than project site owner) name, company name, address, email address, and telephone number.

iii. The name of the project as it appears on the construction plan and, when applicable, alternative names that may be associated with the project. The name must include the specific designations that are associated with the project and identified on the plans, including phases, sections, or other divisions.

iv. The number of acres to be involved in the construction activities and disturbed. The disturbed acreage claimed in the NOI must be consistent with the acreage identified in the construction/stormwater pollution prevention plan. Permit coverage is only associated with the disturbed acreage and those areas where appropriate storm-water management measures are identified in the SWPPP.

(b) The NPDES permit number(s), upon receipt.

(c) The location of the construction plan/SWPPP if the project site does not have an on-site location to store the plan.

(24) The use of anionic polymers (cationic polymers are not authorized for use) on the project site are authorized for sediment control provided their use is in conformance with current State of Indiana standards and specifications and the use is identified in the stormwater pollution prevention plan (SWPPP). If use of a polymer is not in the SWPPP and is selected at a later date, notification to IDEM and the Authorized Enforcement Agency is required. An email notification prior to the use of the polymer to the IDEM Stormwater Program is acceptable. For projects regulated by a MS4 notification must follow the local process for the use of polymers.

(25) Restoration and/or clean-up may be required for those areas impacted by sediment or other pollutant discharges. These activities will be performed as directed by the inspecting authority and may require:

(a) Development and submittal of a removal and restoration plan to ensure the methodology chosen will not result in further degradation of the resource.

(b) Permission by a property owner when the restoration activity requires access to a property owned by another entity or individual.

(c) Additional permits prior to initiation of the work.

b. Stabilization Requirements - The following stabilization requirements apply to all land-disturbing activities:

1. Non-vegetated areas that are left idle or scheduled to be left inactive must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. To meet this requirement, the following apply:

(a) Stabilization must be initiated by the end of the seventh day the area is left idle. The stabilization activity must be completed within fourteen (14) days after initiation. Initiation of stabilization includes, but is not limited to, the seeding and/or planting of the exposed area and applying mulch or other temporary surface stabilization methods where appropriate. Areas that are not accessible due to an unexpected and disruptive event that prevents construction activities are not considered idle.

(b) Areas that have been compacted may be excluded from the stabilization requirement when the areas are intended to be impervious surfaces associated with the final land use, provided runoff from the area is directed to appropriate sediment control measures.

2. Final stabilization of a project site is achieved when:

(a) All land-disturbing activities have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) has been established on all unpaved disturbed areas, and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed. This requirement does not apply to:

i. Landscaping that is part of the final project plan is considered stable when the plan has been fully implemented and areas not being vegetated are stable with a non-erosive material and/or product.

ii. Projects or specific stormwater measures that utilize native vegetation and/or special vegetative plantings that are either required by a water quality permit/authorization or part of the design and functionality of a stormwater measure provided the activity does not pose a threat that will result in off-site sedimentation.

iii. Projects on land used for agricultural purposes when:

a) Stabilization is completed in accordance with the above Stabilization Requirements (in 1. (a) and 1. (b)) as land-disturbance progresses. Land that is returned to agricultural production must be temporarily or permanently seeded upon completing land-disturbing activities. Stabilization requirements may be waived by the inspecting authority if the project site does not pose a threat of discharging sediment.

b) Disturbed areas, not previously used for agricultural production, such as filter strips, must be returned to their pre land disturbance use.

(b) Specific projects, due to function and/or operation, may necessitate that an area remain disturbed. Only the minimum operational area will be allowed to remain disturbed. This option primarily applies to off-road recreational commercial operations but may apply to other land use types upon determination by the regulating entity.

c. Design Requirements - The following design requirements apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP:

1. Sound engineering, agronomic, and scientific principles must be utilized for measures contained in the SWPPP.

2. Appropriate measures must be planned, designed, and installed as part of an erosion and sediment control system and in accordance with the site's construction phasing plan.

3. Stormwater runoff leaving the project site must be discharged in a manner that is consistent with this ordinance, state, and/or federal law.

4. Collected runoff leaving the project site must be directed to an established vegetated area, when feasible and applicable, to increase pollutant removal and maximize stormwater infiltration and then either discharged directly into a well-defined, stable receiving conveyance or diffused and released without causing erosion at the point of discharge.

5. Conveyance systems must be designed taking into consideration both peak flow and total volume and must be adequately protected so that their final gradients and resultant velocities are unlikely to cause

erosion at the outlet or in the receiving channel, based on known conditions of the discharge at the time of design to accommodate post-construction conditions.

6. Sediment basins, where feasible, must withdraw water from the surface of the water column unless equivalent sediment reduction can be achieved by use of alternative measures. Alternative measures include but are not limited to increasing the basin length to width ratio to 4:1 or greater, implementation of porous baffles, use of flocculants/polymers, and/or phasing of project land disturbance that also incorporates a rapid stabilization program. During freezing conditions, the implementation of alternative withdrawal methods may be utilized.

d. **Monitoring and Management Requirements** - A trained individual (or an individual working under the direct supervision of a trained individual, as authorized by IC 13-18-27-17), acceptable to the Authorized Enforcement Agency, shall monitor project construction and stormwater activities utilizing the self-monitoring form provided in the Terre Haute Stormwater Standards and Specifications. These shall include:

1. A written evaluation of the entire project site, with the exception of those areas that are considered unsafe. The evaluation must be performed by a trained individual and completed:

(a) Twenty-four (24) hours prior to a qualifying precipitation event or by the end of the next business day following each measurable storm event (excludes accumulated snow events); which is defined as a precipitation accumulation equal to, or greater than, one-half (0.50) inch of rainfall within a 24-hour period. If no rain event occurs within the work week a minimum of one inspection must occur. In the event of multiple qualifying events during the work week, no more than three (3) inspections would be required to meet the self-monitoring requirements.

(b) At a minimum of one (1) time per month for specific areas within the project which are stabilized with permanent vegetative cover at seventy (70) percent density and/or erosion resistant armoring is installed. A reduction to once per month is also applicable for the entire project site for stabilized common areas, basins, conveyances, outfalls, and inactive building sites. Prior to reducing the monitoring to monthly, records must identify the area and the date the area became eligible for monthly monitoring. Weekly monitoring as identified in (a) above must resume if one or more of the following occurs:

- i. The vegetative cover fails or there is evidence of erosion in the identified area.
- ii. The Authorized Enforcement Agency requires monitoring to resume.

2. A complete written evaluation report which must include:

(a) Name of the individual performing the evaluation, including printed name, title, and signature (electronic signatures are acceptable).

(b) Date of the evaluation.

(c) Amount of precipitation, when the evaluation is conducted after a measurable storm event. Recorded rainfall may be documented utilizing an on-site rain gauge or storm event information from a weather station that is representative of the project location.

(d) Observations of project performance in relation to:

- i. Implementation of the stormwater pollution prevention plan.
- ii. Assessment of existing stormwater measures based on industry standards and maintenance standards as identified in Section 5 of the Stormwater Permit Application Form (found in Appendix B1 of this document) to ensure each measure is operational and functioning properly.

iii. Additional measures necessary in the event an existing measure fails or is not present in the landscape.

iv. Impacts including, but not limited to, sediment discharges, erosion, discharges that results in bank erosion, and operational activities that have the potential to generate pollutants and unauthorized discharges.

(e) Documentation of an actual discharge that is visible during the assessment, the location of the discharge and a visual description of the discharge. The visual description includes, but is not limited to, color (turbidity reading is an option), odor, floatables, settled/suspended solids, foam, oil sheen, and any other visible sign that may be attributed to operations occurring on the project site.

(f) Detail of corrective action recommended and/or completed. Corrective action includes, but is not limited to:

i. Repairing, modifying, or replacing any stormwater management measure.

ii. Clean-up and proper disposal of spills, releases, or other deposits.

iii. Remediating a permit violation.

iv. Taking reasonable steps to remediate, minimize or prevent the discharge of pollutants associated with the construction activity until a permanent corrective solution is initiated.

v. Restoring an impacted area and/or removing accumulated sediment, provided appropriate permission and permits are obtained to conduct the activity.

(g) A timeline for which the corrective action will occur to remediate the discharge of pollutants. The established corrective action, at a minimum, must be initiated:

i. On the day the deficiency was discovered or when it is not practical to initiate on the discovery date, no later than forty- eight (48) hours for the repair of a measure or installation of a temporary measure until a new and/or replacement measure is installed as specified in item ii) below.

ii. Within seven (7) days of discovery for the installation of a new (alternative) measure or replacement of an existing measure unless a shorter timeframe is required as part of a regulatory inspection. The inspecting authority may also allow additional time to take corrective action.

iii. If corrective action cannot be achieved within the timelines outlined in i) or ii) above, a reason for incompleteness must be provided and documented, including the anticipated completion date.

(h) Documentation of corrective action taken from the previous self-monitoring report.

3. Maintaining the SMP reports at the site or at an easily accessible location (refer to Project Documentation Requirements below).

4. Providing all reports for the project site to Authorized Enforcement Agency within forty-eight (48) hours of a request. Electronic copies are acceptable, provided they are in a format consistent with the paper record.

e. Project Documentation Requirements – The following project documentation shall be developed and maintained:

1. Maintain a project management log that contains:
 - (a) Information related to all off-site borrow sites, disposal areas, and staging areas, including the location of each activity as it is identified and/or selected.
 - (b) Information related to all project activities including, but not limited to:
 - i. SMP reports.
 - ii. Regulatory inspections.
 - iii. Responses to a compliance action or enforcement action.
 - iv. Records showing the dates of all SWPPP modifications. The records must include the name and affiliation of the person authorizing each change and a summary of all changes.
2. Ensure the SWPPP and supporting documentation associated with the SMP and project management log are accessible at the project site office or in the possession of on-site individuals with responsibility for the overall project management or associated with the management and operations of construction activities. This information must be provided to the Authorized Enforcement Agency within forty-eight (48) hours of a request.

Sec. 9-168 General Requirements for Individual Building Lots within a Permitted Project.

All stormwater quality measures, including erosion and sediment control, necessary to comply with this Article must be implemented in accordance with the Construction Plan and be sufficient to satisfy the following requirements: Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- a. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
- b. Installation and maintenance of a stable construction site access.
- c. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- d. Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
- e. Clean-up of sediment that is either tracked or washed onto road. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
- f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- g. Appropriate measures must be implemented to eliminate wastes or unused building materials including, but not limited to garbage, debris, cleaning wastes, wastewater, concrete or cementitious washout water, mortar/masonry products, soil stabilizers, lime stabilization materials, and other substances

from being carried from the building site by runoff or wind. Wastes and unused building materials must be managed and disposed of in accordance with all applicable statutes and regulations.

h. Construction and domestic waste must be managed to prevent the discharge of pollutants and windblown debris in accordance with Sec. 9-167(a)(18).

i. Demolition waste must be managed to prevent windblown debris and to protect water quality.

j. Concrete and cementitious washout areas provided by the permittee of the overall project site are utilized unless a leak-proof containment system is operated on the building lot, or special arrangements are made to properly dispose of the wash water. Washout systems on individual lots are the responsibility of the individual lot operator and must be properly installed and maintained. Wash water must be managed by the individual lot operator and is not allowed to discharge.

k. For individual residential lots, final stabilization meeting the criteria in Sec. 9-167 b of this Article will be achieved when the individual lot operator:

(1) completes final stabilization; or

(2) has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

Sec. 9-169 Monitoring of Discharges.

The Authorized Enforcement Agency shall have authority to monitor discharges from construction sites covered under this Article as described in City of Terre Haute Illicit Connections and Discharge Regulation.

Sec. 9-170 Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non- structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 9-171 Construction Site Inspection.

a. In addition to the required self-monitoring inspections by the developer as detailed in Section 9-167 d, the Authorized Enforcement Agency will perform inspections and provide recommendations to evaluate the installation, implementation, and maintenance of control measures and management practices at any project site involved in construction activities. Construction project sites will be prioritized based on the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

b. If after a recommendation is provided to the project site owner, corrective action is not taken, the Authorized Enforcement Agency will pursue enforcement pursuant to Sec. 9-176.

Sec. 9-172 Project Termination.

- a. The Authorized Enforcement Agency shall make a final inspection of the site at the request of the project site owner when all land disturbing activities have been completed, the entire project site has been stabilized and all temporary erosion and sediment control measures have been removed. Upon satisfaction that all conditions have been addressed the Authorized Enforcement Agency shall issue a Termination Verification Form.
- b. The project site owner must submit a Notice of Termination (NOT) letter to IDEM through IDEM's ePortal and include a copy of the Termination Verification Form with the NOT submittal.

Sec. 9-173 Post-Construction Controls for New Development or Redevelopment.

- a. On areas that undergo new development or redevelopment, site construction resulting in disturbance of one (1) acre or more total land area, the project site owner must submit to the Terre Haute Department of Engineering, a Stormwater Pollution Prevention Plan (SWPPP) that would show placement of appropriate post construction BMP(s) from a pre-approved list of BMPs specified in the Terre Haute Standards and Specifications. The SWPPP submittal shall include an Operation and Maintenance Manual for all post construction BMP(s) included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in the Terre Haute Standards and Specifications, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMPs must be designed, constructed, and maintained according to the guidelines provided or referenced in the City of Terre Haute Standards and Specifications. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to the guidelines provided in the Terre Haute Standards and Specification, would be placed with the applicant. Details regarding the procedures and criteria for consideration for acceptance of such BMPs are provided in the Terre Haute Standards and Specifications. The Terre Haute Department of Engineering shall have full technical and administrative approval authority on the application and design of all post construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and related documents as defined in CSGP.
- b. Any development or redevelopment, regardless of disturbed area, discharging to infiltration measures or karst features shall be required to install pretreatment BMPs in accordance with the Terre Haute Standards and Specifications.
- c. Infiltration practices will not be allowed in wellhead protection areas as the primary water quality treatment measure, unless the measure is designed to treat the pollutant(s) of concern that originate in the drainage area of the measure. Detailed requirements regarding the activities in wellhead protection areas are contained in the City of Terre Haute Wellhead Protection District code (Division XV).
- d. Hotspot developments which produce higher levels of pollutants and/or present a higher potential risk for spills, leaks, or illicit discharges regardless of the disturbed area may be required to install pretreatment BMPs at the discretion of the Authorized Enforcement Agency.
- e. Gasoline outlets and refueling areas must install appropriate practices to reduce lead, copper, zinc, and other hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.
- f. Post-construction stormwater management measures must be implemented to manage the discharge of stormwater run-off to address quality and quantity. Measures must be designed and engineered in accordance with the following standards and at a minimum:
 - (1) The control and release of the post-developed stormwater run-off shall be in accordance with the details contained in the Terre Haute Standards and Specifications.
 - (2) Run-off from the project site must be managed to minimize pollutants that are expected to be associated with stormwater run-off from the final land use. To achieve pollutant minimization goals, measures must be selected based on correct sizing to address the Water Quality Volume (WQv) or Water

Quality Flow Rate (WQq) in accordance with the details contained in the Terre Haute Standards and Specifications to ensure compliance with 327 IAC 2-1-6(a)(1)(A-D) and 327 IAC 2-1.5-8(a) and 327 IAC 2-1.5-8 (b)(1)(A-D).

(3) Utilize one (1) or more post-construction measures working in tandem or series to treat stormwater run-off and increase the overall efficiency of individual and specialized measures.

(4) In combination with proper post-construction measure selection, design and development strategies may be selected and incorporated into the plan to minimize the discharge pollutants. These strategies may include, but are not limited to:

(a) Low Impact Development (LID) and green infrastructure.

(b) Infiltration measures. When selected, infiltration measures must take into consideration the pollutants associated with run-off and the potential to contaminate ground water resources. When there is a potential for contamination, choose alternative measures or measures that pre-treat run-off to eliminate or reduce the pollutants of concern.

Sec. 9-174 Post Construction Stormwater Quality Submittals.

a. All planned post construction BMPs shall be indicated on the submitted plans with design calculations included. The calculation methods as well as the type, sizing, and placement of all BMPs shall meet the design criteria, standards, and specifications outlined in the City of Terre Haute Standards and Specifications.

b. Written operational and maintenance plans shall be submitted for all planned structural post construction BMPs to ensure long-term maintenance and functionality.

Sec. 9-175 Post Construction Site Inspection and Maintenance.

a. All post construction BMPs shall be inspected and maintained in good condition by the owner, in accordance with the Terre Haute Standards and Specifications, the Indiana Storm Water Quality Manual, and/or the post construction operations and maintenance manual to provide the intended stormwater quality benefits. Following construction completion, maintenance of BMPs shall be the long-term responsibility of the facility's owner.

b. Post construction BMPs shall not be altered, revised, or replaced except in accordance with the approved plans, or in accordance with approved amendments or revisions to the plans.

c. The Authorized Enforcement Agency have the authority to perform long-term, post construction inspection of all public or privately owned BMPs. The inspections will follow the operation and maintenance procedures included in the Terre Haute Standards and Specifications, the Indiana Storm Water Quality Manual, or the operation and maintenance plan submitted with the approved plans for each specific BMP. The inspection will cover physical conditions, available water quality storage capacity, and operational condition of key facility elements. Noted deficiencies and recommended corrective action will be notified by the Authorized Enforcement Agency and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Authorized Enforcement Agency will pursue enforcement actions.

Sec. 9-176 Enforcement.

a. Enforcement of this Article shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The Authorized Enforcement Agency shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the Authorized Enforcement Agency's discretion. The tiered enforcement may include:

(1) Verbal warning to the construction site operator to make corrections.

(2) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

(3) Warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.

(4) Stop Work Order. Note that per IC 13-18-27-18, if the Authorized Enforcement Agency has made a conclusive favorable determination concerning a construction plan (including SWPPP) and work on the construction project has begun, the Authorized Enforcement Agency may not order work on the construction project to stop on the grounds that the erosion and sediment control measures included in the construction plan are not adequate unless the project site owner is notified in writing of the inadequacies that the Authorized Enforcement Agency perceives in the erosion and sediment control measures and the perceived inadequacies are not resolved within seventy-two (72) hours after the project site owner receives the written notice. However, this limitation does not prohibit the Authorized Enforcement Agency from ordering work on a construction project to stop immediately if the project site owner is creating a public health hazard or a safety hazard.

(5) Revocation of Land disturbance permit.

b. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Sec. 9-177 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Sec. 9-178 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or any other action deemed reasonable by the Authorized Enforcement Agency.

Sec. 9-179 Civil Penalty.

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day. The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

Sec. 9-180 Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec. 9-181 Remedies Not Exclusive.

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

SECTION 3. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 4. If any provision of this Ordinance or the application of any provision of this Ordinance to any person or circumstance is invalid, the invalidity shall not affect the other provisions or the application of any provision which can be given effect without the invalid provision or application, and to this end, all provisions and sections or parts thereof are declared to be Severable.

SECTION 5. WHEREAS, this Ordinance shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and publication as required by law.

Introduced by: Anthony Dinkel, Councilperson

Passed in open Council this 6th day of June, 2024.

Tammy Boland, President

ATTEST: Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.

Michelle L. Edwards, City Clerk

Approved by me, the Mayor this 6th day of June, 2024.

Brandon C. Sakbun, Mayor

ATTEST: Michelle L. Edwards, City Clerk

GENERAL ORDINANCE 8, 2024 - Amending City Code, Chapter 8, Section 8-110, Penalty- Parking Violations <DeBaun>

GENERAL ORDINANCE 8, 2024 was read by digest. Motion was made by Councilperson DeBaun and seconded by Councilperson Chalos to take action on GENERAL ORDINANCE 8, 2024. Motion carried unanimously. Motion was made by Councilperson DeBaun and seconded by Councilperson Chalos to table until 7/11/2024 GENERAL ORDINANCE 8, 2024. Motion carried.

GENERAL ORDINANCE 9, 2024 - Amending City Code, Chapter 2, Article 6, Section 2-65, Human Relations Commission <Dinkel>

GENERAL ORDINANCE 9, 2024 was read by digest. Motion was made by Councilperson Dinkel and seconded by Councilperson Thompson to take action on GENERAL ORDINANCE 9, 2024. Motion carried unanimously. Motion was made by Councilperson Dinkel and seconded by Councilperson Thompson to pass GENERAL ORDINANCE 9, 2024. Motion carried.

GENERAL ORDINANCE NO. 9, 2024

AN ORDINANCE AMENDING THE *TERRE HAUTE CITY CODE*, CHAPTER 2, ARTICLE 6, SECTION 2-65 TO AMEND THE RESPONSIBILITIES OF THE HUMAN RELATIONS COMMISSION.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute that the *Terre Haute City Code* shall be modified as follows:

SECTION 1. *Terre Haute City Code*, Chapter 2, Article 6, Section 2-65 is hereby amended by inserting the underlined text and removing the stricken text as follows:

Sec. 2-65 Human Relations Commission.

~~The Common Council of the City of Terre Haute finds that prejudice and the practice of invidious discrimination in employment, housing, public accommodations, education, and financing practices against any~~

~~individual or group based on race, color, religion, national origin, age, gender, sexual orientation, gender identity, status, or physical or mental disability are a menace to the public peace and welfare, inimical to democracy, and harmful to the health and welfare of our citizens. The Common Council of the City of Terre Haute desires to better serve the residents of the City of Terre Haute and in an attempt to better meet the purpose of eradicating prejudice and the practice of invidious discrimination. The Common Council of the City of Terre Haute deems that it is necessary and appropriate and in the best interest of the residents of the City of Terre Haute to establish the Human Relations Commission. (Gen. Ord. No. 7, 2015, 7 16 15)~~

The Common Council of the City of Terre Haute finds that all citizens deserve equitable access to opportunities, regardless of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran. The Common Council of the City of Terre Haute desires to build a vibrant, thriving, and unified community. The Common Council of the City of Terre Haute deems that it is necessary and appropriate and in the best interest if the residents of the City of Terre Haute to establish the Human Relations Commission.

a. Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

~~(1) “Discrimination” means any difference in treatment based upon race, color, religion, national origin, age, gender, sexual orientation, gender identity, marital status, or physical or mental disability. Discrimination also shall mean the exclusion of a person from or failure or refusal to extend to a person equal opportunities because of race, color, religion, national origin, age, gender, sexual orientation, gender identity, marital status, or physical or mental disability.~~

(1) "Disability" means with respect to a person: (i) a physical or mental impairment that substantially limits one or more of the person's major life activities; (ii) a record of having an impairment described in subdivision (i) above; or (iii) being regarded as having an impairment described in subdivision (i) above. "Disability" shall not include circumstances exempted from the definition of "disability" or "disabled" under federal and state law.

(2) “Discrimination” means the exclusion of a person by another person from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran; or a system which excludes persons from equal opportunities because of race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status or status as a veteran or the promotion or assistance of segregation or separation in any manner on the basis of the above categories.

~~(2)-(3) “Gender Identity” means a person’s actual or perceived gender or perceived gender-related attributes, self-image, appearance, expression or behavior, whether or not such characteristics differ from those traditionally associated with the person’s assigned sex at birth.~~

(4) "Housing status" means the type of housing in which an individual resides, whether publicly or privately owned, or the status of not having a fixed residence, whether actual or perceived.

~~(3) (5) “Sexual Orientation” means male or female sexuality, real or perceived, by orientation or practice. (Gen. Ord. No. 7, 2015, 7-16-15)~~

b. Establishment; Membership; Vacancies.

(1) To assist in the elimination of discrimination in Terre Haute, there is hereby created a Commission to be known as the Terre Haute Human Relations Commission.

(2) The Commission shall consist of seven (7) members, ~~not more than four (4) of whom shall be members of the same political party.~~ Three (3) ~~of whom~~ members shall be appointed by the Common Council and four (4) ~~of whom~~ members shall be appointed by the Mayor. (Gen. Ord. No. 7, 2006, 5-11-06)

(3) Terms shall be for a period of three (3) years and until a successor has been appointed and qualified, except for one (1) Commissioner appointed by each the Common Council and the Mayor for an original term of (2) years, and until a successor has been appointed and qualified. The effect of this original appointment is to establish a staggering of terms such that there will never be a complete turnover of Commissioners at the end of any given three (3) year term. All Commissioners appointed shall be limited to not more than two (2) consecutive terms.

(4) As of the time of the establishment of this Commission, all seven (7) commission positions are vacant and therefore Common Council shall appoint members to fill three (3) of the vacancies, and thereafter shall be responsible for appointing their successors, and the Mayor shall appoint members to fill the remaining four (4) vacancies, and shall thereafter be responsible for appointing their successors.

c. Qualifications of Members.

(1) All members shall be residents of the City of Terre Haute or a property owner within the City of Terre Haute and who also resides within Vigo County. The Mayor and Common Council shall make only those appointments which ensure:

- (A) That members are persons who have demonstrated a commitment to the purpose for which the Commission is created; and
- (B) That the Commission is broadly representative of the community in regard to ~~race, religion, national origin, gender, sexual orientation, gender identity, and abilities. (Gen. Ord. No. 7, 2015, 7-16-15); and~~ race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran.

(2) It shall be the duty of the Mayor and the Common Council publicly to solicit suggestions for Commission appointments from organizations having an interest in the improvement of inter-group relations in the community, and to give thoughtful consideration to the appointment of persons so suggested.

d. Officers.

(1) At the first meeting of the Commission, which shall be called by the Mayor, the Commissioners shall elect one of their number to serve as chairman, and also shall elect such other officers as the Commission shall desire from among its members.

(2) If the Commission employs an Executive Director as permitted herein, the Commission may appoint the Executive Director to serve as Secretary to the Commission. In such an event, the Executive Director/Commission Secretary shall not be required to meet the qualifications for membership on the Commission, and shall not be compensated for the services as Commission Secretary other than the salary established for the position of Executive Director.

d. Death, Incapacity or Resignation of Member; Removal.

(1) In the event of a death, incapacity, or resignation of any member, his or her successor shall be appointed by the one who appointed such member and the newly appointed member shall serve for the unexpired period of the term of the one replaced.

(2) Either the Mayor or the Common Council shall have the right to remove, at any time for cause, any member of the Commission appointed by that person or body.

(3) Any member who is absent from at least four (4) meetings in any twelve-month period or is absent from three (3) consecutive meetings will be considered to have voluntarily resigned from the Commission.

e. Powers and Duties.

(1) The Commission shall have only those powers which are conferred herein and which are permitted to be exercised by a Human Relations Commission under the applicable provisions of Indiana law, including the power to:

- (A) Investigate and conciliate complaints of prejudice or invidious discrimination in employment, housing, public accommodations, education and financing practices;
- (B) Refer to the appropriate governmental entity those complaints which cannot be conciliated by the Commission;
- (C) Employ an Executive Director and other staff personnel as determined appropriate by the Commission and funded by the Common Council;
- (D) Adopt rules and regulations to conduct its business and its meetings;
- (E) Conduct programs and activities to carry out the purposes of the Terre Haute Human Relations Commission provided for in this Chapter within the territorial boundaries of the City.

(2) The Commission shall hold regular meetings and as called by the elected Commission President or two (2) Commissioners. All meetings and notices thereof shall be conducted in conformity with *I.C. § 5-14-1.5-1, et seq.*

(3) The Commission shall endeavor to keep itself fully informed concerning the studies and findings of private organizations in respect to the practices falling within the Commission's purpose.

(4) The Commission shall render an annual report of its activities to the Mayor and to the Common Council, and shall render such other additional reports as the Mayor or the Common Council may from time to time request. The reports shall describe in detail the investigations and conciliation proceedings it has conducted, the outcome of such proceedings, the progress made and any other work performed and achievement toward the elimination of discrimination.

f. Responsibilities.

~~(1) Study the relationship between persons of various races, sexes, creeds, abilities and nationalities within the City and to advise and assist the various City departments in matter involving relationships between such groups to the end that prejudice, intolerance, bigotry, and discrimination will be eliminated in Terre Haute;~~

(1) Collect, study, and analyze data relating to the experiences of persons of various races, sexes, creeds, abilities and nationalities within the City in order to advise and assist various City departments in developing evidence-based initiatives and solutions that promote accessibility, equity, opportunity, and belonging;

~~(2) Identify and recommend ways to eliminate discrimination based upon gender, race, sexual orientation, gender identity, religion, handicap, ancestry, national origin or place of birth in education, employment, public accommodations and housing (Gen. Ord. No. 7, 2015, 7 16 15);~~

(2) Identify and recommend ways to eliminate barriers such as prejudice, intolerance, bigotry, and discrimination based upon gender, race, sexual orientation, gender identity, religion, handicap, ancestry, national origin or place of birth in education, employment, public accommodations and housing;

~~(3) Study, investigate and recommend action in regard to any condition having an adverse effect upon relations between persons of various races, genders, sexual orientation, gender identities, creeds, abilities and nationalities (Gen. Ord. No. 7, 2015, 7 15 16);~~

(3) Provide guidance, education, and technical assistance to other city departments, boards and commissions, the common council, and the mayor to assist in eliminating systems-level barriers and build equitable outcomes and services;

~~(4) Institute and conduct educational and other programs intended to promote the equal rights and opportunities of all persons;~~

(4) Institute and conduct community educational programs and activities intended to celebrate culture and heritage, and promote accessibility, equity, opportunity, and belonging for all persons;

~~(5) Solicit the cooperation of the various racial, ethnic, disability, women's rights, and religious groups within the community in order to improve the quality of communications and understanding within the community; and~~

(5) Solicit the cooperation of the various racial, ethnic, disability, women's rights, veteran, and religious groups within the community to promote accessibility, equity, opportunity, and belonging as a means of improving the quality of communications and understanding within the community; and

~~(6) Stimulate private and governmental departments and agencies to develop and foster meaningful programs in support of the objectives and purposes of the Terre Haute Human Relations Commission. (Gen. Ord. No. 4, 1999, 4-12-99)~~

(6) Stimulate private and governmental departments and agencies to develop and foster meaningful programs in support of the objectives and purposes of the Terre Haute Human Relations Commission.

g. Responsibilities of Executive Director.

(1) If the Commission employs an Executive Director, it shall be the responsibility of the Executive Director to:

(A) Provide services and assistance to other city departments, boards, commissions, Common Council, and Mayor in order to promote equity, opportunity, accessibility, and belonging in all programs and services provided by the city.

(B) Serve as an ADA compliance coordinator and assist other city departments, boards and commissions, the Common Council, and the Mayor in ensuring all of the city's programs and initiatives comply with accessibility laws.

(C) Serve as a Title VI compliance coordinator and assist other city departments, boards and commissions, the Common Council, and the Mayor in ensuring that the city is in compliance with Title VI of the Civil Rights act.

(D) Serve as a liaison to the Homeless Coalition of the Wabash Valley, in order to provide assistance and support other city departments, boards and commissions, the Common Council, and the Mayor in developing programs and services to address homelessness and its effects in the community.

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Anthony Dinkel, Councilperson
Passed in open Council this 6th day of June, 2024.
Tammy Boland, President
ATTEST: Michelle L. Edwards, City Clerk
Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.
Michelle L. Edwards, City Clerk
Approved by me, the Mayor this 6th day of June, 2024.
Brandon C. Sakbun, Mayor
ATTEST: Michelle L. Edwards, City Clerk

Resolutions

RESOLUTION 14, 2024 – Transfer of \$100,000.00 in the EDIT #0404-0096 Budget <Loudermilk>

RESOLUTION 14, 2024 was read by digest. Motion was made by Councilperson Nation and seconded by Councilperson Hinton to pass RESOLUTION 14, 2024. Motion carried.

RESOLUTION 14, 2024

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA:

WHEREAS, There are insufficient funds in a certain account(s) of the EDIT (0404-0096) budget to meet current and anticipated expenditures within said Department, and;

WHEREAS, There are surplus funds in another account of the same budget, said Accounts being within the appropriation heretofore made for the use of said Department.

BE IT THEREFORE RESOLVED: That the following transfers be made in the Accounts heretofore appropriated for the use of said Department:

FROM: #0404-0096-03-432018	Demo of Unsafe Buildings	\$100,000.00
TO: #0404-0096-04-441011	Land Acquisition Redevelopment	\$100,000.00
	TOTAL	\$100,000.00

Introduced by: Cheryl Loudermilk, Councilperson
Passed in open Council this 6th day of June, 2024.
Tammy Boland, President
ATTEST: Michelle L. Edwards, City Clerk
Presented by me to the Mayor this 6th day of June, 2024 at 9:05 pm o'clock.
Michelle L. Edwards, City Clerk
Approved by me, the Mayor this 6th day of June, 2024.
Brandon C. Sakbun, Mayor
ATTEST: Michelle L. Edwards, City Clerk

RESOLUTION 16, 2024 - Designating an area commonly identified 4400 Maple Avenue, Terre Haute, Indiana as an Economic Revitalization Area for the purpose of a ten (10) year Real Property Abatement (GATX Corporation) <For Adoption> <Loudermilk>

RESOLUTION 16, 2024 was read by digest. Motion was made by Councilperson Loudermilk and seconded by Councilperson Chalos to adopt RESOLUTION 16, 2024. Motion carried.

TERRE HAUTE CITY COUNCIL
STATE OF INDIANA

RESOLUTION NO. 16, 2024

A Resolution of the Common Council of the City of Terre Haute, Indiana, Designating an Area Within the City legally described as 4400 Maple Avenue, Terre Haute, Indiana 47804, as an Economic Revitalization Area for the purpose of a ten (10) year real property abatement.

WHEREAS, a petition for a ten (10) year real property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein be designated as Economic Revitalization Area for purposes of real property tax abatement; and

WHEREAS GATX Corporation, the "petitioner," has submitted an Application and Statement of Benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a site plan as set forth in attached Exhibit A (which is hereby made a part hereof), and legal description of the aforesaid real property more particularly described as follows:

Beginning at an iron pipe at the Southeast Corner of the Northeast Quarter of Section 13; thence along the East line of said Section 13; North 0 degrees 06 minutes 10 seconds West 2644.13 feet to a stone monument in the centerline of Maple Avenue, said point being the Northeast Corner of said Section 13, and the Southeast corner of Section 12, both in Township 12 North, Range 9 West; thence along the East line of Section 12, North 0 degrees 07 minutes 20 seconds West 940.4 feet; thence North 45 degrees 0 minutes 0 seconds West 900.0 feet to an iron pipe; thence North 25 degrees 06 minutes 30 seconds West 821.60 feet to an iron pipe; thence due South 1208.95 feet; thence North 47 degrees 14 minutes 0 seconds West 226.9 feet to an iron pipe; thence South 0 degrees 0 minutes 40 seconds East 1232.04 feet to an iron pipe on the centerline of Maple Avenue, said point being on the South line of and 185.09 feet East of the stone monument at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of said Section 12, and the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 13; thence continuing due South 2645.95 feet to an iron pipe on the South line of the Northeast Quarter of said Section 13; thence South 88 degrees 25 minutes 10 seconds East 1158.55 feet to the point of beginning.
Parcel No.: 84-06-13-200-007.000-002
Commonly known as: 4400 Maple Avenue, Terre Haute, IN 47804; and

WHEREAS, petitioner has represented that the project itself will create 21 new permanent full-time jobs with an annual payroll of \$755,500.00 (approximately) and that the cost of the project will be at least \$20,523,500.00 for real property improvements; and

WHEREAS, the Common Council for the City of Terre Haute, Indiana is authorized under the provisions of I.C. 6-1.1-12.1-1 *et. seq.* to designate areas of Terre Haute, Indiana as economic revitalization areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the Application, Petition and Statement of Benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an economic revitalization area under Indiana statutes; and

WHEREAS, the Common Council of the City of Terre Haute has found the subject property to be within the boundaries of the City of Terre Haute, Indiana, an area where facilities that are technologically, economically, or energy obsolete are located, and where the obsolescence may lead to a decline in employment and tax revenues and has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements, character of occupancy, age, obsolescence, substantial buildings and other factors which prevent normal development or use;

WHEREAS, the real property abatement is a declining percentage of the increase in assessed value of the improvement based on the following time period and percentages as determined by the City Council (estimates as provided):

Abatement	Percentage	Tax Abated	Tax Paid
1	100%	\$615,705.00	\$0
2	95%	\$569,355.00	\$46,350.00
3	80%	\$430,304.00	\$185,401.00
4	65%	\$291,253.00	\$324,452.00
5	50%	\$152,202.00	\$463,503.00
6	40%	\$59,502.00	\$556,203.00
7	30%	\$0 -Circuit Breaker	\$648,904.00
8	20%	\$0	\$741,604.00
9	10%	\$0	\$834,305.00
10	5%	\$0	\$880,655.00
Totals		\$2,118,321.00	\$4,681,378.00

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the Common Council of the City of Terre Haute that:

1. The petitioner's estimate of the value of the redevelopment and rehabilitation and the project to be constructed on the subject real property is reasonable for projects of that nature in order to maintain, expand, update and improve efficiency and capabilities for a rail car improvement facility.
2. The petitioner's estimate of the number of individuals who will be employed, and the benefit thereby, can reasonably be expected to result from the project and the redevelopment and rehabilitation.
3. The petitioner's estimate of the annual salaries or wages of the individuals who will be employed, and the benefit thereby, can reasonably be expected to result from the project and the redevelopment and rehabilitation.
4. That the other benefits about which information has been requested can be expected to result from the project and the redevelopment and rehabilitation.
5. The totality of the benefits of the proposed redevelopment and rehabilitation can reasonably be expected to result from the project and are sufficient to justify a ten year real property tax deduction from assess valuation under Indiana statutes, and each such deduction should be, is hereby, allowed.
6. That the petition for designating the subject property as an economic revitalization area for the purposes of ten year real property tax abatement and the Statement of Benefits, copies of which were submitted with the petitions, are hereby approved, and the Real Estate described hereinabove is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et. seq., and petitioner is entitled to the ten (10) year real property tax abatement provided therein for the proposed redevelopment and rehabilitation upon the real estate described herein.
7. That all real property improvements added as of August 01, 2024, and through December 31, 2027, are eligible for a ten (10) year real property tax abatement, regardless of when it was improved during that period. The real property improvements subject to the Petitioner's request may receive different percentages of abatement as of the same assessment date, depending on when the property was first subject to abatement, but all real property improvements subject to abatement pursuant to this resolution shall be entitled to receive the benefit of ten (10) years of abatement.
8. That notice hereof should be published according to law stating the adoption and substance hereof, that a copy of the description of the affected area is available for inspection in the County Assessor's Office, and

stating a date on which the Council will hear and receive remonstrances and objections and take final action, all as required by law.

Introduced by: Cheryl Loudermilk, Councilmember
Passed in open Council this 6th day of June, 2024.
Tammy Boland, City Council President
ATTEST: Michelle Edwards, City Clerk
Presented by me to the Mayor this 6th day of June, 2024, at 9:05 p.m.
Michelle Edwards, City Clerk
Approved by me, the Mayor, this 6th day of June, 2024.
Brandon Sakbun, Mayor
ATTEST: Michelle Edwards, City Clerk

This instrument prepared by Darrell E. Felling II, Lind & Felling Law Firm, 400 Ohio Street, Terre Haute, IN 47807 (812) 234-5463

RESOLUTION 17, 2024- Designating an area commonly identified 4400 Maple Avenue, Terre Haute, Indiana as an Economic Revitalization Area for the purpose of a ten (10) year Personal Property Abatement (GATX Corporation) <For Adoption> <Loudermilk>

RESOLUTION 17, 2024 was read by digest. Motion was made by Councilperson Azar and seconded by Councilperson Chalos to adopt RESOLUTION 17, 2024. Motion carried.

TERRE HAUTE CITY COUNCIL
STATE OF INDIANA
RESOLUTION NO. 17, 2024

A Resolution of the Common Council of the City of Terre Haute, Indiana, Designating an Area Within the City Commonly Identified as 4400 Maple Avenue, Terre Haute, Indiana 47804, as an Economic Revitalization Area for the Purpose of a Ten Year Personal Property Tax Abatement

WHEREAS, A Petition for a ten (10) year personal property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein be designated an Economic Revitalization Area for purposes of personal property tax abatement; and

WHEREAS, GATX Corporation (the "petitioner") has submitted a Statement of Benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a map of the property and description of the real property, and more particularly described as follows:

Beginning at an iron pipe at the Southeast Corner of the Northeast Quarter of Section 13; thence along the East line of said Section 13; North 0 degrees 06 minutes 10 seconds West 2644.13 feet to a stone monument in the centerline of Maple Avenue, said point being the Northeast Corner of said Section 13, and the Southeast corner of Section 12, both in Township 12 North, Range 9 West; thence along the East line of Section 12, North 0 degrees 07 minutes 20 seconds West 940.4 feet; thence North 45 degrees 0 minutes 0 seconds West 900.0 feet to an iron pipe; thence North 25 degrees 06 minutes 30 seconds West 821.60 feet to an iron pipe; thence due South 1208.95 feet; thence North 47 degrees 14 minutes 0 seconds West 226.9 feet to an iron pipe; thence South 0 degrees 0 minutes 40 seconds East 1232.04 feet to an iron pipe on the centerline of Maple Avenue, said point being on the South line of and 185.09 feet East of the stone monument at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of said Section 12, and the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 13; thence continuing due South 2645.95 feet to an iron pipe on the South line of the Northeast Quarter of said Section 13; thence South 88 degrees 25 minutes 10 seconds East 1158.55 feet to the point of beginning. Parcel No.: 84-06-13-200-007.000-002

Commonly known as: 4400 Maple Avenue, Terre Haute, IN 47804; and

WHEREAS, petitioner has represented and presented evidence that the projects will create 21 new permanent full-time jobs with combined annual salaries of \$755,500.00 and that the cost of the project will be \$6,755,000.00 for equipment (the "manufacturing equipment").

WHEREAS, the Common Council of the City of Terre Haute is authorized under the provisions of I.C. 6-1.1-12.1-1 et seq. to designate areas of the City as economic revitalization areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the petition and Statement of Benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an economic revitalization area under Indiana statutes; and

WHEREAS, the Common Council has found the subject property to be an area where facilities that are technologically, economically or energy obsolete, are located and where the obsolescence may lead to a decline in employment and tax revenues and has become undesirable for or impossible of normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements, character of occupancy, age, obsolescence, substandard buildings and other factors, which prevent normal development or use;

WHEREAS, the personal property abatement is a declining percentage of the increase in assessed value of the improvement based on the following time period and percentages as determined by the City Council (estimates provided):

Abatement	Percentage	Tax Abated	Tax Paid
1	100%	\$81,060.00	\$0
2	90%	\$96,398.00	\$17,086.00
3	80%	\$59,484.00	\$25,629.00
4	70%	\$35,557.00	\$29,291.00
5	60%	\$24,182.00	\$36,613.00
6	50%	\$15,029.00	\$45,766.00
7	40%	\$5,875.00	\$54,920.00
8	30%	\$0 –Circuit Breaker	\$64,073.00
9	20%	\$0	\$73,226.00
10	10%	\$0	\$82,380.00
Totals		\$317,585.00	\$428,984.00

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the Common Council of the City of Terre Haute that:

1. The petitioner's estimate of the cost of new manufacturing equipment is reasonable for manufacturing equipment of that type in view of current technologies.

2. The petitioner's estimate of the number of individuals who will be employed and retained, and the benefits thereby, can reasonably be expected to result from the project and installation of new manufacturing equipment.

3. The petitioner's estimate of the annual salaries or wages of the individuals who will be employed and retained, and the benefit thereby, can reasonably be expected to result from the project and the installation of the new manufacturing equipment.

4. That the benefits about which information has been requested can reasonably be expected to result from the installation of the new manufacturing equipment.

5. The totality of the benefits of the proposed Project and installation of the new manufacturing equipment can reasonably be expected to result from the project and are sufficient to justify a ten (10) year personal property tax deduction from assessed valuation under Indiana statutes, and each such deduction should be, and they are hereby, allowed.

6. That the petition for designating the subject property as an economic revitalization area for the purposes of ten year personal property tax abatement and the Statement of Benefits, copies of which were submitted with the petitions, are hereby approved and the Real Estate described hereinabove is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq and petitioner is entitled to a ten year personal property tax abatement as provided therein for the proposed acquisition of the new manufacturing equipment.

7. That all tangible personal property added or installed as of August 01, 2024, and through December 31, 2027, is eligible for a ten (10) year personal property tax abatement, regardless of when it was added or installed during that period. The personal property subject to the Petitioner's request may receive different percentages of abatement as of the same assessment date, depending on when the property was first subject to abatement, but that all personal property subject to abatement under the proposed resolution shall be entitled to receive the benefit of ten (10) years of abatement.

8. That notice hereof should be published according to law stating the adoption and substance hereof, that a copy of the description of the affected area is available for inspection in the County Assessor's Office and stating a date on which the Council will hear and receive remonstrances and objections and take final action, all as required by law.

9. That this Resolution is supplementary to and in addition to any prior resolution.

Introduced by: Cheryl Loudermilk, Councilmember

Passed in open Council this 6th day of June, 2024.

Tammy Boland, City Council President

ATTEST: Michelle Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024, at 9:05 p.m.

Michelle Edwards, City Clerk

Approved by me, the Mayor, this 6th day of June, 2024.

Brandon Sakbun, Mayor

ATTEST: Michelle Edwards, City Clerk

This instrument prepared by Darrell E. Felling II, Lind & Felling Law Firm, 400 Ohio Street, Terre Haute, IN 47807 (812) 234-5463

RESOLUTION 18, 2024 – Proclaiming Wednesday, June 19, 2024 to be Juneteenth <Hinton, Azar, Boland, Chalos, DeBaun, Dinkel, Loudermilk, Nation, Thompson>

RESOLUTION 18, 2024 was read by digest. Motion was made by Councilperson Nation and seconded by Councilperson Hinton to pass RESOLUTION 18, 2024. Motion carried.

RESOLUTION 18, 2024

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA:

WHEREAS, on January 1, 1863, the Emancipation Proclamation, issued by President Abraham Lincoln, legally ended slavery; and

WHEREAS, in December 1865, the Thirteenth Amendment to the United States Constitution was nationally ratified, ending the sanctioned institution of slavery; and

WHEREAS, on June 19, 1865, two and one-half years after the Emancipation Proclamation, Union Soldiers led by General Gordon Granger arrived in Galveston, Texas to enforce the emancipation of enslaved people and inform the last of those enslaved within the borders of the United States that they were free; and

WHEREAS, June 19 has been celebrated in communities across the nation as Juneteenth and also is known as Freedom Day, Jubilee Day, Liberation Day, Emancipation Day, Black Independence Day, and in our community as Terre Haute Day; and

WHEREAS, June 19, or Juneteenth, became nationally recognized as National Freedom Day in 2021; and

WHEREAS, on this anniversary each year, families, churches, organizations and individuals throughout our city celebrate the diverse mosaic of African American heritage and culture with events and celebrations; and

WHEREAS, the Terre Haute Day Organizing Committee commemorates the Fifth Annual Juneteenth event; and

WHEREAS, we recognize the significance of Juneteenth in the broader context of Black history and the ongoing fight for civil rights and social justice; and

WHEREAS, the Common Council of the City of Terre Haute encourages all people to observe Juneteenth as an opportunity to learn, reflect, and celebrate;

NOW THEREFORE BE IT RESOLVED, we, the Terre Haute City Council, join city and county government leaders all over the United States in proclaiming Wednesday, June 19, 2024, to be Juneteenth

Introduced by: Kandace Hinton, Councilperson

Introduced by: George Azar, Councilperson

Introduced by: Tammy Boland, Councilperson

Introduced by: James Chalos, Councilperson

Introduced by: Curtis DeBaun, Councilperson

Introduced by: Anthony Dinkel, Councilperson

Introduced by: Cheryl Loudermilk, Councilperson

Introduced by: Todd Nation, Councilperson

Introduced by: Amanda Thompson, Councilperson

Passed in open Council this 6th day of June, 2024.

Tammy Boland, City Council President

ATTEST: Michelle Edwards, City Clerk

Presented by me to the Mayor this 6th day of June, 2024, at 9:05 p.m.

Michelle Edwards, City Clerk

Approved by me, the Mayor, this 6th day of June, 2024.

Brandon Sakbun, Mayor

ATTEST: Michelle Edwards, City Clerk

Motion was made by Councilperson Azar and seconded by Councilperson Dinkel that the meeting be adjourned. Motion carried.

Kelley Duggins
Chief Deputy City Clerk

Tammy Boland, President

Michelle L. Edwards, City Clerk