

**DECEMBER 18, 2023**

**REGULAR SESSION**

The LaGrange County Commissioners met in Regular Session on Monday, January 16, 2024, in their meeting room, County Office Building, 114 W. Michigan Street, LaGrange, Indiana, 46761, at 8:30 a.m., with the following present: Commissioners, Mr. Peter A. Cook and Mr. Kevin R. Myers; and LaGrange County Auditor, Kathryn Hopper. Mr. Terry A. Martin was absent. Mr. Peter Cook, Vice President, called the meeting to order and led in saying the Pledge of Allegiance to the Flag. Mr. Kevin Myers made a motion to adopt the proposed agenda with flexibility. Mr. Peter Cook seconded the motion and it carried unanimously.

**REQUEST TO HAVE FUNDRAISER**

A representative from Energy Mix was present and requested permission to hold a fund raiser on the Courthouse lawn on May 4, 2024. The fundraiser would benefit the LaGrange County and Noble County 4-H youth livestock program. Mr. Kevin Myers made a motion to allow the use of the Courthouse lawn for the fundraiser. Mr. Peter Cook seconded the motion and it carried unanimously.

**MAJOR MOVES CONSTRUCTION FUND GRANT AGREEMENT-LAGRANGE COUNTY TRAILS, INC.**

Mr. Kurt Bachman, County Attorney, presented a Major Moves Construction Fund Grant Agreement between the Board of Commissioners of the County of LaGrange and LaGrange County Trails, Inc. LaGrange County Trails, Inc. is requesting funding to help construct the Hawpatch Trail, a bike/pedestrian trail in southwest LaGrange County. On August 10, 2020, they were awarded the grant in the amount of \$1,500,000. Mr. Kevin Myers made a motion to approve the agreement and authorize the Vice President to sign. Mr. Peter Cook seconded the motion and it carried unanimously.

**WEIN & SHEARER MECHANICAL, INC – MAINTENANCE AGREEMENT**

Mr. Kurt Bachman, County Attorney, presented an agreement between the Board of Commissioners and Wein & Shearer Mechanical, Inc. for the chillers, coolers, boilers, water heaters, backflow preventers, and air handling units at the Sheriff's Office. The agreement is in the amount of \$13,750.00 per year and is in effect from January 1, 2024 to December 31, 2026. Mr. Kevin Myers made a motion to approve the agreement and authorize the Vice President to sign. Mr. Peter Cook seconded the motion and it carried unanimously.

**POLLING PLACES**

Mr. Kurt Bachman, County Attorney, explained that the County Clerk, Mrs. Kimberley Johnson, is requesting to combine VanBuren and Newbury polling places into one at Newbury. Mr. Kevin Myers made a motion to approve the combining of the two polling places and to authorize the attorney to prepare an order for the combination and to have the order signed outside of the public meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

**ORDINANCE AMENDING THE PUBLIC PURCHASING RULES FOR THE COUNTY OF LAGRANGE, INDIANA**

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

**COUNTY OF LAGRANGE  
ORDINANCE NO. 2024-01-16-A**

**AN ORDINANCE AMENDING THE PUBLIC PURCHASING RULES FOR THE COUNTY OF LAGRANGE, INDIANA.**

WHEREAS, pursuant to Indiana Code ("IC") 5-22-3-3(a), a governmental body may adopt rules to regulate purchases of the governmental body;

WHEREAS, pursuant to IC 36-1-2-9, the Board of Commissioners of the County of LaGrange ("Commissioners") is the legislative body of LaGrange County, Indiana ("County");

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WHEREAS, pursuant to IC 5-22-4-5(a), the purchasing agency for the County is the person designated by law or by rule of the governmental body;

WHEREAS, pursuant to this ordinance and its prior versions, the Commissioners are the general purchasing agency for the County;

WHEREAS, pursuant to IC 5-11-10-1.6 and the County Council's LaGrange County Advance Payment Ordinance, the general purchasing agent may allow advance payment for the purchase of goods and services - either directly or as part of a public works project - to the fullest extent permitted by law and as further limited by the purchasing agent for the purchase;

WHEREAS, pursuant to the Code of Federal Regulations ("CFR," specifically 2 CFR § 200.214), the County is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180;

WHEREAS, pursuant to 2 CFR Part 200, Subpart D, with respect to any purchase that involves a federal award or sub-award, the County must fully comply with that Subpart; *and*

WHEREAS, the Commissioners have determined that there is a need to amend (repeal and replace) the Public Purchasing Rules, which was last amended on June 6, 2022.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

### SECTION I – NAME

The name of this ordinance shall be the "Public Purchasing Rules."

### SECTION II – RECITALS

The Commissioners hereby incorporate the foregoing recitals, including all defined terms, into this ordinance and find them to be true, accurate, and correct.

### SECTION III – DEFINITIONS

- A. General. Whenever the following terms are used in this ordinance, they shall have those meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.
1. "Acts" refer to Indiana Code 5-22 and/or 2 CFR Part 200, Subpart D.
  2. "Applicable law" refers especially to the Acts, and includes all other constitutions, laws, regulations, codes, ordinances, rules, orders, awards, authorizations, judgments, writs, decrees, applicable ethical standards, and any respective amendments thereto, of any government or quasi-government entity with jurisdiction over a purchase.
  3. "Bond" means a certified check, bond, or other acceptable evidence of financial responsibility made payable to the County as a requirement or inducement for submitting an offer.
  4. "Contract" means the final agreed-upon terms that result from a respective solicitation, or, where there is no written agreement, the respective signed quote or purchase order.
  5. "Ineligible" means, with respect to an Offeror and prospective purchase, the state of being then-currently:
    - a. debarred, suspended, or otherwise excluded from or ineligible to participate in Indiana or federal assistance programs or activities;
    - b. declared non-responsible by the County within the previous three (3) years;
    - c. under a conflict-of-interest for the purchase that has not been publicly disclosed; *or*
    - d. otherwise declared ineligible under applicable law.

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6. "Offer" means an offeror's response to a solicitation whereby a purchasing agent is invited to accept the terms thereof; the term includes a bid, proposal, quote, contract draft, letter of engagement, or statement of qualifications.
  7. "Offeror" means a person that submits an offer to the County.
  8. "Purchase" means a public purchase by a purchasing agent; the term includes the act of buying, procuring, renting, leasing, licensing, otherwise acquiring, and preparing or administering a solicitation and contract.
  9. "Purchasing agent" means a person identified as such in this ordinance but only to the extent that the person is making a purchase under his or her own authority.
  10. "Services" means the significant furnishing of labor, time, or effort by a person, except for the delivery of supplies.
  11. "Solicitation" means a formal invitation for bids, request for proposals, request for quotes, or request for qualifications made by a purchasing agent; the term includes any included specifications, requirements, statements of work, or subsequent amendment or addenda related thereto and any records incorporated thereby.
  12. "Supplies" means any property, except an interest in real property; the term includes equipment, goods, and materials.
- B. Determination. The Commissioners shall have the final authority in determining the meaning of these terms.

### SECTION IV – SCOPE

- A. Commissioners Authority. Nothing in this ordinance shall be construed to limit the purchasing authority of the Commissioners in any way.
- B. Public Works. This ordinance does not apply to a contract for public works, except with respect to:
1. professional consulting services;
  2. the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property and only if the cost is estimated to be less than the amount set by IC 36-1-12-4.9 (currently \$150,000.00); and
  3. other language in this ordinance specifically identifying such an application.
- C. Investment Services. Services purchased in accordance with the Investment Policy Adoption Ordinance are beyond the scope of this ordinance.
- D. Extraneous Claims Barred. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may apply to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, nor any other right, protection, immunity, defense, or limitation on liability that the County or such related parties is provided by applicable law.
- E. External Review. Nothing in this ordinance shall subject an otherwise lawful purchase to additional review by the State Board of Accounts or another external reviewer.
- F. Conflicts. Whenever the provisions of this ordinance conflict with the terms of a contract entered into by the Commissioners, the terms of the contract control.

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**SECTION V – PURCHASING AGENCY**

- A. Agency. The Board of Commissioners of the County of LaGrange is designated as the purchasing agency for the County with all powers and duties authorized under the Acts.
- B. General Purchasing Agents. The members of the Commissioners shall serve *ex officio* and by majority rule as the general purchasing agent for the County.
- C. Limited Purchasing Agents. The Auditor and the various department heads are each named as limited purchasing agents of the County *ex officio*, with limited purchasing authority in accordance with this ordinance. There are no other limited purchasing agents of the County.
- D. Standard. All purchasing agents and County representatives working on their behalf shall govern themselves in accordance with the Acts.
- E. Oversight. Each purchasing agent and, in the case of a general purchasing agent, the department head on whose behalf a purchase was made must maintain oversight to ensure that the respective Offeror performs in accordance with the terms, conditions, and specifications of the contract.

**SECTION VI – PURCHASING AGENT LIMITATIONS**

- A. Authority. A purchasing agent may make a purchase with or without a solicitation unless the purchase or method is otherwise prohibited by this ordinance.
- B. Purchasing Limits. A limit referred to in this subsection is based solely on the reasonable expectations of the amount to be actually spent under a contract for a prospective purchase.
  - 1. The Commissioners may make a purchase without a solicitation as long as the purchase is under the amount allowed by IC 5-22-8-2.
  - 2. The Auditor may not make a purchase above \$5,000.
  - 3. A department head may not make a purchase above \$2,500.
  - 4. County elected officials and employees not identified in this section may not make a purchase on their own authority.
  - 5. The Commissioners may raise the limits identified in this section by motion in accordance with applicable law.
- C. Artificial Division. A purchasing agent may not artificially divide a purchase to bring any part of the purchase under the limits established by this section.
- D. Public Works. A limited purchasing agent may not make a purchase that constitutes a public work, as that term is defined in IC 36-1-12.
- E. Services. A limited purchasing agent may not make a purchase for services except from an Offeror with whom the County is currently under contract or whose services the County has satisfactorily used in the past.
- F. Lease. A limited purchasing agent may not enter into a lease. A department head may not request the general purchasing agent to enter into a lease of a structure or a system, as such terms are defined in IC 36-1-10, on the department head's behalf without having first submitted to the general purchasing agent all documents required by IC 36-1-10 and full information as to why the lease is necessary and whether the lease is fair and reasonable.
- G. Grants / Gifts. A purchasing agent may not make a purchase with funds originating from a grant or gift except in accordance with the terms of the grant or gift.
- H. Appropriations. No purchasing agent may make a purchase or award a contract unless a related sufficient appropriation balance or an approved additional appropriation has been made. The contract must specify that payment and performance obligations are subject to the appropriation and availability of funds.

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- I. Suspension and Debarment. No purchasing agent shall make any purchase from an ineligible Offeror.
- J. Conflict of Interest. No purchasing agent shall make any purchase in violation of the County's conflict-of-interest ordinance (2017-06-19).
- K. Compliance. A limited purchasing agent is to comply with the restrictions imposed by this ordinance in good faith and with complete honesty. Any failure in this regard may subject the limited purchasing agent to disciplinary action under the Personnel Policies Handbook and/or other remedies available to the Commissioners.

### SECTION VII – ADVANCE PAYMENT

- A. Findings; Policy. The Commissioners hereby find that many prospective offerors do not have the necessary cash flow and/or elect not to take on the risk to front the cost of supplies to the County as part of a purchase, which supplies must often be separately acquired from a third party. Therefore, in order to provide a more level playing field among prospective offerors and to encourage as much competition as practicable, the Commissioners hereby encourage the use of advance payment of supplies within the scope of applicable law.
- B. Assessment. Any contract that allows advance payment to an Offeror should be based on the purchasing agent's assessment of the Offeror's financial situation, proven track record of providing services, and justified need for advances, as well as compliance with applicable law.
- C. Supplies. This subsection applies to any solicitation for a purchase of supplies, including as part of a public works project. An agent of a purchasing agent may advertise and/or negotiate that the purchasing agent is willing to make advance payment on the supplies up to twenty-five percent (25%) of the entire cost of the contract or One Million Dollars (\$1,000,000.00), whichever is less.
- D. Services. This subsection applies to any solicitation for a purchase of services, excluding any employment contract. An agent of a purchasing agent may advertise and/or negotiate that the purchasing agent is willing to make advance payment on a purchase for services as long as the advance payment is made no more than once per year.
- E. Invoices. In order to receive payment for a purchase of supplies pursuant to this section, the Offeror must present to the Auditor a purchase order or invoice for the supplies that conforms to the contract requirements and that shows to the satisfaction of the Auditor that the supplies are being purchased on behalf of the County or will be owned by the County.
- F. Forms. The Auditor may create, modify, and require an Offeror to use, a form to process all requests for advance payment and may, as a condition therefor, request any information or materials prescribed by the state board of accounts therefor.
- G. Payment. The Auditor may pay any purchase order or invoice for supplies or services in advance of the County's receipt of those supplies or services to the extent that the purchase order or invoice conforms to this section and the contract.
- H. Internal Controls. In order to prevent overpayment, misuse, or loss of County funds, the Auditor must implement periodic reconciliation, service tracking, and other internal control procedures with respect to any payment of an advance purchase.
- I. Final Payment. With respect to a purchase made pursuant to this section, the department head for the department on whose behalf the purchase was made must verify to the satisfaction of the Auditor that the full supplies and/or services under the contract have been received before final payment on the purchase can be made.
- J. Other Parameters. The Commissioners may approve other specific forms of advance payment for a purchase by motion to the extent allowed by applicable law. The Auditor may prescribe further rules and procedures in conformity to this section.

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SECTION VIII – EMERGENCY PURCHASES

- A. Definition. As used in this section, an “emergency” means a sudden and serious event or an unforeseen change in circumstances that clearly calls for immediate action to avert, control, or remedy reasonably foreseeable economic or regulatory harm or personal injury relating to the event or change in circumstances; the term includes any local disaster emergency declared pursuant to IC 10-14-3-29.
- B. Authority. Notwithstanding anything in this ordinance to the contrary, the Principal Executive Officer (as designated in Ordinance 2020-10-05-A) or the Auditor, as a general purchasing agent, may make a purchase of any value during an emergency when there is a threat to public health, welfare, or safety and the purchase is reasonably calculated to materially mitigate the threat.

SECTION IX – ELECTRONIC PURCHASES

- A. Authority. Except as provided in this section, a solicitation, offer, or purchase may be made by any customary electronic means; provided, that the purchasing agent takes reasonable steps to ensure that the means are at least as efficient and at least as secure as when using regular mail.
- B. General Procedures. If a solicitation allows for an offer to be made using electronic means, the solicitation must include the specific procedure an offeror must use for submitting the electronic offer; provided, however, that this requirement is satisfied by general reference in the solicitation to the applicability of this ordinance.
- C. Sealed Offers. No offeror shall submit an offer using electronic means in response to a solicitation that calls for sealed offers.

SECTION X – REQUESTS FOR PROPOSALS

- A. Preference. Whenever the Acts require a purchasing agent to prepare a solicitation, the purchasing agent shall use a request for quotes or proposals over an invitation for bids for a purchase of supplies unless the purchasing agent makes a reasonable written determination that an invitation for bids is to be preferred.
- B. Negotiations. With respect to an offer received in response to a request for proposals, the purchasing agent or contract administrator may negotiate and obtain a final offer from the offeror based on information received from other offerors to the extent fairness permits.

SECTION XI – BONDS

- A. Requirement. The purchasing agent may require in a solicitation that each offeror submit, along with its offer, a bond as evidence of its financial responsibility.
  - 1. The surety on the bond shall be a duly authorized corporate surety company authorized to do business in the State of Indiana.
  - 2. An attorney-in-fact who signs a bond must file with the bond an effectively dated copy of the power of attorney, bearing the seal of the company, evidencing the agent’s authority to execute the bond.
- B. Purpose. The general purpose of the bond is to ensure, to the extent an offeror’s proposal is selected for award and if the offeror should within the time stipulated in the solicitation (or if impossible or not stated, within a reasonable time) fail to:
  - 1. furnish all documents required by the solicitation after a contract award; *and*
  - 2. enter into a contract in accordance with the offer and the solicitation (as modified by any subsequent negotiations);that the County will then be compensated for its lost time and efforts during the post-award process and for its diminished ability and negotiating posture with respect to other offerors.

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- C. Satisfaction. The bonds shall be returned to the various offerors within sixty (60) days after the time indicated in a solicitation after which the submission of an offer may not be accepted except with respect to a bond that is part of a winning offer. In such a case, the bond shall be returned when the winning offeror timely executes the contract.
- D. Forfeiture. In the event an offeror whose offer is selected for award should fail or refuse to fulfill any post-award requirements within the timeframe provided, the purchasing agent may declare the bond forfeited.

### SECTION XII – SPECIFICATIONS

- A. Index. The Auditor shall maintain an indexed file of specifications prepared by or under the authority of a purchasing agent.
- B. Use Required. Whenever the Acts require a purchasing agent to prepare a solicitation, a purchasing agent who desires to make a purchase shall prepare, issue, revise, maintain, and monitor the use of specifications for the prospective purchase.

### SECTION XIII – ADDITIONAL FEDERAL PROVISIONS

- A. Scope. This section applies to every purchase made in full or part using money obtained from a federal award or sub-award, but only to those purchases.
- B. Awards. Whenever the County receives a federal award or sub-award, the Auditor must create a general contracts file for the award that ensures compliance with 2 CFR § 200.302.
- C. Competition.
  - 1. Standards. All purchases for supplies or services must be conducted so as to provide full and open competition consistent with applicable law and must avoid:
    - a. placing unreasonable requirements on Offeror qualification;
    - b. requiring unnecessary experience and excessive bonding;
    - c. noncompetitive pricing practices between Offerors;
    - d. noncompetitive contracts to Offerors that are on retainer contracts;
    - e. organizational conflicts of interest;
    - f. specifying “brand name” products instead of allowing “as equal” products and describing the performance or other relevant requirements of the procurement; *and*
    - g. any arbitrary action in the procurement process.
  - 2. Ineligibility.
    - a. Any person who prepares a solicitation is thereby ineligible to be an Offeror for the respective purchase.
    - b. Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) is ineligible with respect to telecommunications equipment.
  - 3. Geographic Preference. Notwithstanding anything in the County’s Public Purchasing Preferences Ordinance to the contrary, no geographic preference shall apply to the purchase except that supplies must have been produced in the United States unless an exception applies under applicable law.
  - 4. Specifications. Full service and supplies specifications are required for each solicitation and must not unduly restrict competition.
  - 5. Solicitation Type. The type of solicitation or direct purchase must conform to 2 CFR § 200.320 given the estimated contract price.

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### D. Suspension and Debarment.

1. Rule. No purchasing agent shall make any purchase from an ineligible Offeror.
2. Solicitation. Each solicitation for a purchase must warn that an ineligible Offeror may not participate in the solicitation and that any contract entered into under the solicitation with an ineligible Offeror is void.
3. Contract Language. Each contract must include any language required to be included under 2 CFR Pt. 200, App. II regarding suspension and debarment.
4. Verification. Before a purchasing agent enters into a contract, the Auditor shall adequately check the federal System for Award Management or successor website to determine whether the respective Offeror is ineligible. If the Auditor finds that the Offeror is ineligible, the Auditor shall notify the Commissioners thereof.

### E. Bonding. For public works contracts, the bid bond must equal five percent (5%) of the bid price.

### F. Terms and Conditions. Each contract must include language sufficient to comply with 2 CFR 200, App. II. The respective solicitation must include corresponding warnings.

### G. Recovered Materials. In accordance with 2 C.F.R. § 200.323, with respect to “recovered materials,” as such term is defined at 40 CFR § 247.3, each solicitation for a purchase estimated to be over \$10,000.00 shall require that Offerors, when making their offers:

1. certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the solicitation or applicable law; *and*
2. estimate the percentage of total material utilized for the performance of the contract that is recovered materials.

### H. Records. The Auditor shall maintain records sufficient to detail the history of each purchase including, the rationale for the purchase method, the selection of contract type, Offeror selection or rejection, and the basis for the contract price. The Auditor may request from any department head on whose behalf a purchase was made to supply relevant information.

## SECTION XIV – REPEAL OF PRIOR LAW

### A. Repeal. Ordinance 2022-06-06-A, which was adopted on June 6, 2022, is hereby repealed in its entirety.

### B. Continuance.

1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
2. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, the provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
3. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically directed otherwise.

### C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

## SECTION XV – MISCELLANEOUS

### A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the

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same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.

2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
  3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- D. Ratification. The Commissioners hereby ratify, confirm, and approve any disinterested purchase made by designated a purchasing agent of the County prior to the adoption of this ordinance to the extent where ratification is required or permitted by applicable law and the purchase would have otherwise conformed to this ordinance.
- E. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- F. Effective Date. This ordinance shall take effect immediately upon adoption.

Mr. Kevin Myers made a motion to approve the Ordinance. Mr. Peter Cook seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

**TEEN COURT SERVICES AGREEMENT**

Mrs. Kathryn Hopper, County Auditor, presented an Agreement for Teen Court Services with Joanne Gillespie for 2024 for consideration. Mr. Kevin Myers made a motion to approve the agreement and to authorize the vice president to sign outside of a public meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

**ORDINANCE CREATING THE LAGRANGE COUNTY PUBLIC INVESTMENT POLICY AND AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS IN CERTAIN DEPOSIT ACCOUNTS**

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

**COUNTY OF LAGRANGE  
ORDINANCE NO. 2024-01-16-B**

**AN ORDINANCE CREATING THE LAGRANGE COUNTY PUBLIC INVESTMENT POLICY AND  
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS IN CERTAIN DEPOSIT ACCOUNTS.**

WHEREAS, pursuant to Indiana Code (“IC”) 5-13-4-16, an “investing officer” is defined as “the person having authority by law to invest for the political subdivision, or, if there is no law, the person designated by resolution of the fiscal body”;

WHEREAS, pursuant to IC 5-13-9-1, a county treasurer, under guidelines established by the respective board of county commissioners, may invest any public funds held by the county in accordance with that code chapter;

WHEREAS, pursuant to IC 5-13-9-5.3, a board of county commissioners may authorize, by ordinance, the investing officer to invest public funds in one or more interest bearing deposit accounts under certain conditions specified therein;

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WHEREAS, pursuant to IC 36-1-2-9, the Board of Commissioners of the County of LaGrange ("Commissioners") is the legislative body of LaGrange County, Indiana ("County");

WHEREAS, on October 19, 2015, the Commissioners adopted Resolution 2015-10-19 to authorize certain investments of public funds pursuant to the Act ("Resolution"); *and*

WHEREAS, the Commissioners desire to repeal the Resolution and replace it with a full investment policy.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

### SECTION I – NAME

The name of this ordinance shall be the "Investment Policy Adoption Ordinance."

### SECTION II – RECITALS

The Commissioners hereby incorporate the foregoing recitals, including all defined terms, into this ordinance and find them to be true, accurate, and correct.

### SECTION III – DEFINITIONS

- A. General. Whenever used in this ordinance, the following terms shall have those meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.
1. "Act" refers to Public Law 19-1987, as codified into the Indiana Code at IC 5-13, and as may have been or may be subsequently amended from time to time.
  2. "Board" refers to The Board of Finance of LaGrange County, which is established and constituted in accordance with the Act.
  3. "Commissioners" refers to the Board of Commissioners of the County of LaGrange.
  4. "Council" refers to the LaGrange County Council of LaGrange County, Indiana.
  5. "County" refers to LaGrange County, Indiana.
  6. "Deposit account" has the meaning ascribed to it in the Act, except as such term is further modified by IC 5-13-9-5.3.
  7. "Financial institution" has the meaning ascribed to it in the Act.
  8. "IC" stands for "Indiana Code."
  9. "Investing officer" means, in accordance with IC 5-13-4-16 and IC 5-13-9-1, the Treasurer, in an *ex officio* capacity; the term includes any other person to whom the Treasurer has delegated a portion of his or her duties under this ordinance or the Investment Policy to the extent of such delegation.
  10. "Investment" means an investment of public funds under the Investment Policy.
  11. "Investment Policy" means the LaGrange County Investment Policy, which is attached to this ordinance as Exhibit A.
  12. "Public funds" has the meaning ascribed to it in the Act, except only with respect to the County.

- B. Determination. The Commissioners shall have the final authority in determining the meaning of these terms.

### SECTION IV – GENERAL INVESTMENT POLICY

- A. Approval; Adoption; Incorporation. The Investment Policy is hereby approved, adopted, and incorporated into this ordinance by reference as if fully set out herein.

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### B. Deposits of Interest Income.

1. General. Except as otherwise prescribed by the Act or this ordinance, any interest derived from an investment must be deposited into the General Fund.
  2. Federal. To the extent required by applicable federal law, any interest derived from an investment that is traceable to a United States government funds must be deposited into the fund from of which it is a part.
  3. Courts. Except as otherwise designated by court order, any interest derived from an investment that is traceable to a court order must be deposited into the fund from of which it is a part.
  4. Alternate. Upon adoption of a motion and in accordance with the Act, the Commissioners may designate that the interest from an investment, or a designated portion of such interest, be deposited into another County fund.
- C. Service Charges. The investing officer may contract to pay the service charge of a financial institution to the extent the service charge conforms to the Act.
- D. Deposit Account Authority. In accordance with IC 5-13-9-5.3 and the Investment Policy, the investing officer is hereby authorized to invest public funds in interest-bearing deposit accounts.
- E. Codification. To the extent that this ordinance is codified, the codifier should codify the Investment Policy in full.

### SECTION V – REPEAL OF PRIOR LAW

- A. Repeal. Resolution 2015-10-19, which was adopted on October 19, 2015, is hereby repealed in its entirety.
- B. Continuance.
1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
  2. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, the provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
  3. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically directed otherwise.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

### SECTION VI – MISCELLANEOUS

- A. Extraneous Claims Barred. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may apply to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, nor any other right, protection, immunity, defense, or limitation on liability that the County or such related parties is provided by applicable law.

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- B. External Review. Nothing in this ordinance shall subject an investment that is otherwise lawful under the Act to additional review by the Indiana State Board of Accounts or by any other external agency.
- C. References.
  - 1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
  - 2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
  - 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- D. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- E. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- F. Ratification. The Commissioners hereby ratify, confirm, and approve all disinterested prior actions taken by The Board of Finance of LaGrange County or the investment officer concerning investments for which ratification is required or permitted by applicable law.
- G. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- H. Retroactive Effective Date. This ordinance shall be deemed effective as of, and retroactive to, January 1, 2024.

Mr. Kevin Myers made a motion to approve the Ordinance. Mr. Peter Cook seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

### **ORDINANCE AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS IN CERTAIN CERTIFICATES OF DEPOSIT**

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

#### COUNTY OF LAGRANGE ORDINANCE NO. 2024-01-16-C

#### AN ORDINANCE AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS IN CERTAIN CERTIFICATES OF DEPOSIT.

WHEREAS, pursuant to Indiana Code (“IC”) 5-13-4-16, an “investing officer” is defined as “the person having authority by law to invest for the political subdivision, or, if there is no law, the person designated by resolution of the fiscal body”;

WHEREAS, pursuant to IC 36-1-2-9, the Board of Commissioners of the County of LaGrange (“Commissioners”) is the legislative body of LaGrange County, Indiana (“County”);

WHEREAS, pursuant to IC 5-13-9-5, a board of county commissioners may, by ordinance, authorize the investing officer to invest in certificates of deposit of depositories that have not been designated by the local board of finance but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5; and

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WHEREAS, the Commissioners desire to authorize the investing officer to invest in certificates of deposit to the fullest extent of applicable law within the parameters of the County's general investment policies.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA THAT:

SECTION I – NAME

The name of this ordinance shall be the "2024 CD Investment Ordinance."

SECTION II – RECITALS

The Commissioners hereby incorporate the foregoing recitals, including all defined terms, into this ordinance and find them to be true, accurate, and correct.

SECTION III – DEFINITIONS

- A. General. Whenever used in this ordinance, the following terms shall have those meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.
1. "Act" refers to Public Law 19-1987, as codified into the Indiana Code at IC 5-13, and as may have been or may be subsequently amended from time to time.
  2. "Board" has the meaning ascribed to it in the Investment Policy.
  3. "Depository" has the meaning ascribed to it in the Act.
  4. "Investing officer" has the meaning ascribed to it in the Investment Policy.
  5. "Investment" has the meaning ascribed to it in the Investment Policy.
  6. "Investment Policy" refers to the LaGrange County Investment Policy, as adopted by the Investment Policy Adoption Ordinance.
  7. "Public funds" has the meaning ascribed to it in the Investment Policy.
  8. "State board of finance" has the meaning ascribed to it in the Act.
- B. Determination. The Commissioners shall have the final authority in determining the meaning of these terms.

SECTION IV – CERTIFICATES OF DEPOSIT

- A. Investment Authority. In accordance with IC 5-13-9-5, the Act, and the Investment Policy, the investing officer is hereby authorized to invest public funds in certificates of deposit of depositories that have not been approved by the Board but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5.
- B. Expiration. The authority granted by this ordinance expires on December 31, 2024.

SECTION V – MISCELLANEOUS

- A. Extraneous Claims Barred. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may apply to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, nor any other right, protection, immunity, defense, or limitation on liability that the County or such related parties is provided by applicable law.
- B. External Review. Nothing in this ordinance shall subject an investment that is otherwise lawful under the Act to additional review by the Indiana State Board of Accounts or by any other external agency.
- C. References.

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- a. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
  - b. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
  - c. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- D. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- E. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, or any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- F. Ratification. The Commissioners hereby ratify, confirm, and approve all disinterested actions heretofore taken by The Board of Finance of LaGrange County or the investment officer concerning investments in certificates of deposit for which ratification is required or permitted by applicable law.
- G. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- H. Codification. Even if this ordinance has expired, it may be codified as long as its most recent expiration date is conspicuously shown. The Definitions section does not need to be codified where it would be redundant with the Investment Policy Adoption Ordinance.
- I. Retroactive Effective Date. This ordinance shall be deemed effective as of, and retroactive to, January 1, 2024.
- J. Expiration. This ordinance expires on December 31, 2024.

Mr. Kevin Myers made a motion to approve the Ordinance. Mr. Peter Cook seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

### **HIGHWAY – PURCHASE OF TRUCKS**

Mr. Aaron Fugate, Highway Supervisor, requested permission to purchase two new pickups. The lowest quote is from Shepherd's in Kendallville, for two 2024 Chevrolet Silverado 2500 pickup trucks in the amount of \$54,629 each. Mr. Peter Cook made a motion to approve the purchase. Mr. Kevin Myers seconded the motion and it carried unanimously.

### **HIGHWAY – PURCHASE OF SUPERIOR BROOM**

Mr. Aaron Fugate, Highway Supervisor, requested permission to purchase a superior broom from Southeastern Equipment Company, in the amount of \$87,885. Mr. Kevin Myers made a motion to approve the purchase. Mr. Peter Cook seconded the motion and it carried unanimously.

### **LAGRANGE COUNTY ROAD RESURFACING PROJECTS**

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Mrs. Tharon Morgan, County Engineer, presented two agreements for LaGrange County road resurfacing projects. The agreements are with Niblock Excavating, Inc. and API Construction Corp. Mr. Kevin Myers made a motion to approve the agreements. Mr. Peter Cook seconded the motion and it carried unanimously.

### **PARK – PURCHASE OF MOWER**

Mrs. Mary Franke, Park Director, requested permission to purchase a new mower. The lowest quote is from Greenmark Equipment in the amount of \$21,221.90 with a trade in of a 2021 John Deere Z99997R for \$15,700, for a total of \$5,521.90. Mr. Kevin Myers made a motion to approve the purchase. Mr. Peter Cook seconded the motion and it carried unanimously.

### **PARK – PURCHASE OF ARCHERY TARGETS**

Mrs. Mary Franke, Park Director, requested permission to bid up to \$8,000 on archery targets for Pine Knob Park at an online auction. Mr. Peter Cook made a motion to approve the purchase. Mr. Kevin Myers seconded the motion and it carried unanimously.

### **LAGRANGE COUNTY BOARD OF ZONING AND APPEALS**

Mr. Kevin Myers made a motion to appoint Tyler Young to the LaGrange County Board of Zoning Appeals. Mr. Peter Cook seconded the motion and it carried unanimously.

### **CSI – COMPUTER SYSTEMS, INC – SOFTWARE LICENSE AGREEMENT**

Mrs. Kimberley Johnson, County Clerk, presented an agreement between CSI-Computer Systems, Inc. and the Clerk of LaGrange County for software licensing. The cost is \$4,000 per year. Mr. Kevin Myers made a motion to approve the purchase. Mr. Peter Cook seconded the motion and it carried unanimously.

### **SHERIFF'S TRAINING AND STORAGE BUILDING – CHANGE ORDERS**

Mr. Tracy Harker, County Sheriff, presented a change order for Bontrager Builders, the contractor for the Sheriff's training and storage building. The change orders are for NIPSCO electrical for \$5,779.34, cabling for \$2,841.50, additional lights for \$904.36, interior trim seam covers for \$2,380, and aluminum inside corner trim for \$980. Mr. Harker explained that an additional appropriation would be needed to cover the change orders. Mr. Kevin Myers made a motion to approve the change orders and give a positive recommendation to the Council for the additional appropriation. Mr. Peter Cook seconded the motion and it carried unanimously.

### **COUNCIL ON AGING – TRANSPORTATION GRANT**

Mrs. Cheri Perkins, Council on Aging Executive Director, presented the 4<sup>th</sup> quarter voucher for the transportation grant. Mr. Kevin Myers made a motion to approve the voucher, subject to review, and have the President sign it. Mr. Peter Cook seconded the motion and it carried unanimously. Mrs. Perkins presented a review of 2023 activities of the Council on Aging.

### **LAGRANGE COUNTY TOGETHER DIRECTOR**

Mrs. Sherri Johnston, LaGrange County Economic Development Corporation Chief Executive Officer, introduced Ms. Darci Gaff as the Director for LaGrange County Together, a countywide collaboration to develop a bold, comprehensive plan for the growth and prosperity of the communities of LaGrange County.

### **DRIVEWAY PERMIT APPEAL**

At 9:00 a.m. Mr. Kurt Bachman, County Attorney, explained that the County Engineer has been attempting to secure a driveway permit from Mr. Bruce Miller, whose driveway is south of County Road 7010 N and 900 W, Shipshewana. As part of that process, it has been noted that he is in violation of a County Ordinance. It has been determined by the Building Department and the Plan Commission that there are other issues related to the use of

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this property. Mr. Bachman recommends that the hearing be continued indefinitely until information can be obtained from the building department and the Plan Commission. Mr. Kevin Myers made a motion to continue the hearing indefinitely and sign an order outside of the public meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

**CARLSON SOFTWARE UPDATE**

Mr. Zack Holsinger, County Surveyor, requested permission to update the Carlson CAD software for his office, in the amount of \$2,125. Mr. Kevin Myers made a motion to approve the software update. Mr. Peter Cook seconded the motion and it carried unanimously.

**ACCOUNTS PAYABLE VOUCHERS**

Mrs. Kathryn Hopper, County Auditor, presented the Accounts Payable Vouchers. Mr. Kevin Myers made a motion to approve the vouchers. Mr. Peter Cook seconded the motion and it carried unanimously.

**DECEMBER 2023 FINANCIAL REPORT**

Mrs. Kathryn Hopper, County Auditor, presented the financial statement for the month ending December 31, 2023, in the amount of \$59,241,148.43 and investments of \$10,000,000.00. Mr. Peter Cook made a motion to accept the report. Mr. Kevin Myers seconded the motion and it carried unanimously.

**MINUTES**

Mr. Kevin Myers made a motion to approve the minutes of the December 28, 2023 and January 2, 2024 regular session meetings. Mr. Peter Cook seconded the motion and it carried unanimously.

**MEMORANDUM**

Mr. Kevin Myers made a motion to approve the memorandum for the January 10, 2024 staff meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

**CORRESPONDENCE**

LaGrange County Treasurer – December 2023 report

Indiana Department of Environmental Management – Receipt of Air Permit Application, Scarlet Coatings,  
4890 S 950 W, Millersburg, IN, Permit Number 087-47370-00736

Indiana Department of Environmental Management – Approval of Air Permit application, K-Z Inc.,  
Permit Number 087-47054-00063

**ADJOURNMENT**

There being nothing further to come before the Board at this time, Mr. Peter Cook made a motion to adjourn and meet on any subsequent day necessary to carry on the business of the Board. Mr. Kevin Myers seconded the motion and it carried unanimously.

**ABSENT**

Terry A. Martin

Peter A. Cook

Kevin R. Myers

ATTEST:

Kathryn Hopper