

**TOWN OF SELLERSBURG**  
**REGULAR TOWN COUNCIL MEETING**  
**316 E. UTICA STREET SELLERSBURG, INDIANA 47172**

Agenda for  
December 16, 2024 at 6:00 p.m.

**CALL TO ORDER AND ROLL CALL OF MEMBERS:**

**PRAYER:**

**PLEDGE OF ALLEGIANCE:** All Present.

**MOTION TO AMEND/ADOPT THE AGENDA AS PRESENTED:**

**APPROVAL OF MINUTES:**

Approval of minutes as submitted by the Clerk-Treasurer.

**APPROVAL OF ALLOWANCE CLAIMS:**

**APPROVAL OF PAYROLL ALLOWANCE DOCKET:**

**2025 ORGANIZATION OF THE TOWN OF SELLERSBURG COUNCIL APPOINTMENTS:**

**2025 REDEVELOPMENT COMMISSION APPOINTMENTS:**

**2025 BOARD OF ZONING APPEALS APPOINTMENTS:**

**2025 PLAN COMMISSION APPOINTMENTS:**

**2025 POLICE COMMISSION APPOINTMENTS:**

**2025 911 BOARD APPOINTMENT:**

**2025 RIVER HILLS APPOINTMENT:**

**2025 COUNCIL DEPARTMENT LIAISON APPOINTMENTS:**

**COMMENTS FROM PUBLIC ON AGENDA ITEMS** (time limit of 5 minutes per person):

**ORDINANCES AND RESOLUTIONS:**

1. 2024 – OR – 021: An Ordinance Terminating the Planning & Zoning Fund for the Town of Sellersburg, Indiana.
2. 2024 -OR – 022: An Ordinance Revising the Stormwater Ordinance
3. 2024 – R – 005: A Resolution Amending Resolution 2024-R-003 Regarding the Transfer of Property with Silver Creek School Corporation
4. 2024 – R – 006: A Resolution Transferring the Property with the Sellersburg Parks and Recreation Board

**UNFINISHED BUSINESS:**

Ivy Tech WW Project Contract and Award

**NEW BUSINESS:**

1. 2025 Town Insurance Renewal | Jerry Rauck, Shepherd Insurance
2. CCMG 2023-2 | Job No.: 24008 | Libs Paving Co. Change Order | Reduction: \$123,121.84
3. 2025 Council Meeting Schedule
4. Uniform Conflict of Interest Disclosure Statement
5. Utility Billing Adjustment | Account No.: 131110 | \$1802.20
6. Utility Billing Adjustment | Account No.: 130272 | \$11,214.69

**GENERAL COMMENTS FROM THE PUBLIC (limited to 15 minutes total):**

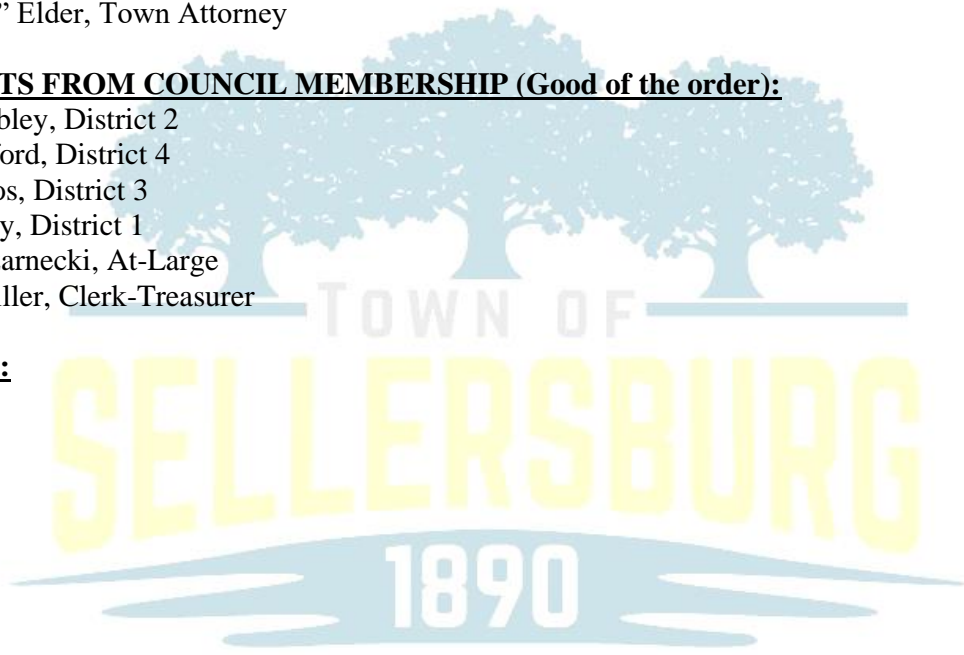
**RECEIPT OF STAFF REPORTS:**

Charlie Smith, Town Manager  
Chief Russ Whelan  
Mike Harris (Jacobi, Toombs, & Lanz)  
Jacob “Jake” Elder, Town Attorney

**COMMENTS FROM COUNCIL MEMBERSHIP (Good of the order):**

Randall Mobley, District 2  
Terry Langford, District 4  
Brad J. Amos, District 3  
Scott McVoy, District 1  
Matthew Czarnecki, At-Large  
Michelle Miller, Clerk-Treasurer

**ADJOURN:**



STATE OF INDIANA  
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

**ORDINANCE NO. 2024 – OR – 021**

**AN ORDINANCE REPEALING FUND NUMBER 270**

**WHEREAS**, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

**WHEREAS**, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, pursuant to Ind. Code § 36-1-3 *et seq.* (i.e. “Home Rule”), a unit may exercise any power it has to the extent that the power is not expressly denied by the Indiana Constitution or by statute and is not expressly granted to another entity; and,

**WHEREAS**, this Council has determined a need to repeal previously created Fund Number 270 – Planning and Zoning Fund.

**NOW THEREFORE BE IT ORDAINED** by this Town Council of Sellersburg, Indiana the following:

1. Fund Number 270 – Planning and Zoning Fund shall be repealed on December 31, 2024. Any monies remaining in the fund at that time shall revert back to the General Fund.
2. This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

*[Signature page to follow]*

“Aye”

“Nay”

\_\_\_\_\_  
Brad Amos  
Council President

\_\_\_\_\_  
Brad Amos  
Council President

\_\_\_\_\_  
Terry Langford  
Council Vice President

\_\_\_\_\_  
Terry Langford  
Council Vice President

\_\_\_\_\_  
Scott McVoy  
Council 2<sup>nd</sup> Vice President

\_\_\_\_\_  
Scott McVoy  
Council 2<sup>nd</sup> Vice President

\_\_\_\_\_  
Matthew Czarnecki  
Council Member

\_\_\_\_\_  
Matthew Czarnecki  
Council Member

\_\_\_\_\_  
Randall Mobley  
Council Member

\_\_\_\_\_  
Randall Mobley  
Council Member

\_\_\_\_\_  
Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer

FIRST READING

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

MOTION: \_\_\_\_\_

SECOND: \_\_\_\_\_

VOTE: \_\_\_\_\_ AYE    \_\_\_\_\_ NAY    \_\_\_\_\_ ABSTAIN

SECOND READING

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

MOTION: \_\_\_\_\_

SECOND: \_\_\_\_\_

VOTE: \_\_\_\_\_ AYE    \_\_\_\_\_ NAY    \_\_\_\_\_ ABSTAIN

STATE OF INDIANA

BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

**ORDINANCE NO. 2024 – OR – 022**

**AN ORDINANCE REVISING THE SELLERSBURG STORMWATER ORDINANCE**

**WHEREAS**, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

**WHEREAS**, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, on the 11<sup>th</sup> day of January, 2021 this Council adopted Ordinance 2021 – OR – 003, which repealed and replaced the stormwater ordinances for the Town of Sellersburg; and,

**WHEREAS**, at the recommendation of the Town Manager and due to changes in Indiana law, this Council desires to revise the Sellersburg Stormwater Ordinance.

**NOW THEREFORE BE IT ORDAINED** by this Town Council of Sellersburg, Indiana as follows:

1. The revisions to the Sellersburg Stormwater Ordinance, attached hereto as Exhibit A, are hereby adopted and approved.
2. All other portions and sections of the Sellersburg Stormwater Ordinance not referenced in the attached exhibit remain unaffected and shall remain in full force and effect.
3. This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

**So Ordained** this \_\_\_\_ day of \_\_\_\_\_, 2024.

“Aye”

“Nay”

\_\_\_\_\_  
Brad Amos  
Council President

\_\_\_\_\_  
Brad Amos  
Council President

\_\_\_\_\_  
Terry Langford  
Council Vice President

\_\_\_\_\_  
Terry Langford  
Council Vice President

\_\_\_\_\_  
Scott McVoy  
Council 2<sup>nd</sup> Vice President

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Scott McVoy  
Council 2<sup>nd</sup> Vice President

\_\_\_\_\_  
Matthew Czarnecki  
Council Member

\_\_\_\_\_  
Matthew Czarnecki  
Council Member

\_\_\_\_\_  
Randall Mobley  
Council Member

\_\_\_\_\_  
Randall Mobley  
Council Member

\_\_\_\_\_  
Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer

FIRST READING

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

MOTION: \_\_\_\_\_

SECOND: \_\_\_\_\_

VOTE: \_\_\_\_\_ AYE    \_\_\_\_\_ NAY    \_\_\_\_\_ ABSTAIN

SECOND READING

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

MOTION: \_\_\_\_\_

SECOND: \_\_\_\_\_

VOTE: \_\_\_\_\_ AYE    \_\_\_\_\_ NAY    \_\_\_\_\_ ABSTAIN



**Sellersburg Stormwater Ordinance**  
**January 2021**

Revised 2024

# CHAPTER 1

## ABBREVIATED TABLE OF CONTENTS

<i>Section</i>	<i>Title</i>	<i>Page</i>
<b>1-1</b>	<b>GENERAL INFORMATION</b>	<b>1</b>
<b>1-2</b>	<b>PROHIBITED DISCHARGES AND CONNECTIONS</b>	<b>4</b>
<b>1-3</b>	<b>STORMWATER QUANTITY MANAGEMENT</b>	<b>7</b>
<b>1-4</b>	<b>STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES</b>	<b>9</b>
<b>1-5</b>	<b>STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION</b>	<b>13</b>
<b>1-6</b>	<b>PERMIT REQUIREMENTS AND PROCEDURES</b>	<b>15</b>
<b>1-7</b>	<b>ENFORCEMENT</b>	<b>20</b>
 <i>Appendices</i>		
<b>A</b>	<b>ABBREVIATIONS AND DEFINITIONS</b>	<b>24</b>



## SECTION 1-1

# GENERAL INFORMATION

Replace " Rule 13 (327 IAC 15-13) with: "Municipal Separate Storm Sewer System General Permit (MS4GP)"

### (a) AUTHORITY AND TITLE

This Ordinance is required by Phase II of the National Pollutant Discharge Elimination System program (FR Doc. 99-29181) authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management's Rule 13 (327 IAC 15-13), and the Indiana Department of Environmental Management's Rule 5 (327 IAC 15-5). Based on this authority and these requirements, this Ordinance regulates:

Replace with: "Construction Stormwater General Permit (CSGP)"

1. Discharges of prohibited non-stormwater flows into the storm drain system.
2. Stormwater drainage improvements related to development of lands located within the corporate boundaries of the Town of Sellersburg ("Town").
3. Drainage control systems installed during new construction and grading of lots and other parcels of land.
4. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
5. The design, construction, and maintenance of stormwater drainage facilities and systems.
6. The design, construction, and maintenance of stormwater quality facilities and systems.

This Ordinance shall be known and may be cited as the Town of Sellersburg Drainage Ordinance. Once adopted, this Ordinance will supersede any conflicting ordinances previously adopted by the Town of Sellersburg.

### (b) APPLICABILITY AND EXEMPTIONS

This Ordinance shall regulate all development and redevelopment occurring within the Town of Sellersburg. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in Appendix A, until the plans required by this Ordinance for such construction have been accepted in writing by the Town. With the exception of the requirements of Section 1-2 and Section 1-6(d) of this Ordinance, single-family dwelling houses and duplexes in accepted subdivisions and land-disturbing activities affecting less than 10,000 square feet of area shall be exempt from the requirements of this Ordinance. Also exempt from this Ordinance shall be agricultural land-disturbing activities.

In addition to the requirements of this Ordinance and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of Town of Sellersburg as well as with applicable Federal, State of Indiana, and other Local statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. Sellersburg Municipal Projects shall be exempt from obtaining a permit but are expected to meet all applicable technical requirements of this Ordinance and the Town of Sellersburg Stormwater Technical Standards Manual. In case there are conflicts between the requirements contained in this Ordinance and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.

Any construction project which has had its final drainage plan accepted by the Town within a 2-year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in Section 1-2 of this Ordinance.

The Town of Sellersburg Council has the authority to modify, grant exemptions, and/or waive any and all the requirements of this Ordinance and its associated technical standards document. A pre-submittal meeting with the Town may be requested by the applicant to discuss the applicability of various provisions of the Ordinance and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the Town that may be based on the review of more detailed information and plans.

**(c) BACKGROUND**

On December 8, 1999, Phase II of the National Pollutant Discharge Elimination System (NPDES) permit program was published in the Federal Register. The NPDES program, as authorized by the 1972 amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase II of NPDES requires permit coverage for stormwater discharges from regulated small municipal separate storm sewer systems (MS4s) and for small construction activity that results in the disturbance of equal to or greater than one acre. This federal regulation went into effect March 10, 2003. In response to Phase II of NPDES, the Indiana Department of Environmental Management enacted Rule 13 (327 IAC 15-13) and revised Rule 5 (327 IAC 15-5).

MS4s

CSGA

Under these State and Federal regulations, the Town of Sellersburg is required to establish a regulatory mechanism for regulating stormwater quality management. The Town had created ordinances to meet these regulations. Therefore, this document was created to update and consolidate these current ordinances into one comprehensive Drainage Ordinance and accompanying Stormwater Technical Standards.

**(d) FINDINGS**

The Town of Sellersburg finds that:

1. Water bodies, roadways, structures, and other property within, and downstream of the Town are at times subjected to flooding;
2. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
3. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
4. Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;
5. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the Town will, absent reasonable regulation and control, adversely affect the Town's water bodies and water resources;
6. Pollutant contributions from illicit discharges within the Town will, absent reasonable regulation, monitoring, and enforcement, adversely affect the Town's water bodies and water resources;
7. Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
8. Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;
9. Adopting this Ordinance is necessary for the preservation of the public health, safety, and welfare, for the conservation of natural resources, and for compliance with State and Federal regulations.

**(e) PURPOSE**

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Sellersburg through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within the Town. This Ordinance establishes methods for managing the quantity and quality of stormwater entering into the storm drain system in order to comply with State and Federal requirements. The objectives of this Ordinance are:

1. To reduce the hazard to public health and safety caused by excessive stormwater runoff.
2. To regulate the contribution of pollutants to the storm drain system from construction site runoff.
3. To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development.
4. To prohibit illicit discharges into the storm drain system.
5. To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

**(f) ABBREVIATIONS AND DEFINITIONS**

For the purpose of this Ordinance, the abbreviations and definitions provided in Appendix A shall apply.

**(g) RESPONSIBILITY FOR ADMINISTRATION**

The Town of Sellersburg shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated by the Town Manager to qualified persons or entities acting in the beneficial interest of or in the employ of the Town.

**(h) INTERPRETATION**

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Appendix A, shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

**(i) DISCLAIMER OF LIABILITY**

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of the Town of Sellersburg or any officer, representative, or employee thereof, for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made there under.

## SECTION 1-2

# PROHIBITED DISCHARGES AND CONNECTIONS

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### (a) APPLICABILITY AND EXEMPTIONS

This section shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the Town of Sellersburg, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities are exempted from the requirements of this section unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are *not* included in this exemption.

Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing non-point source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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 the subject discharge to the storm drain system, is also exempted from this section.

### (b) PROHIBITED DISCHARGES AND CONNECTIONS

No person shall discharge to a MS4 conveyance, watercourse, or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMP's).

Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

The Town is authorized to require dischargers to implement pollution prevention measures, utilizing BMP's necessary to prevent or reduce the discharge of pollutants into the Town's stormwater drainage system.

### (c) EXEMPTED DISCHARGES AND CONNECTIONS

Notwithstanding other requirements in this Ordinance, the following categories of non-stormwater discharges or flows are exempted from the requirements of this section:

1. Water line flushing;
2. Landscape irrigation;
3. Diverted streamflows;
4. Rising ground waters;
5. Uncontaminated groundwater infiltration;
6. Uncontaminated pumped ground water;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensation;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Lawn watering;
15. Individual residential car washing;
16. Flows from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges;

18. Street wash water;
19. Discharges from firefighting activities;
20. Naturally introduced detritus (e.g. leaves and twigs).

**(d) STORAGE OF HAZARDOUS OR TOXIC MATERIAL**

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

**(e) PRIVATE PROPERTY MAINTENANCE DUTIES**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries, free of trash, debris, excessive vegetation, 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.

**(f) SPILL REPORTING**

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Town of Sellersburg concerning the discharge. A written report concerning the discharge shall be filed with the Town and IDEM, by the dischargers, within five (5) days. The written report shall specify:

1. The composition of the discharge and the cause thereof;
2. The date, time, and estimated volume of the discharge;
3. All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
4. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.

**(g) INSPECTIONS AND MONITORING**

**1. Storm Drainage System**

The Town of Sellersburg has the authority to periodically inspect the portion of the storm drainage system under the Town's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

**2. Potential Polluters**

If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the Town may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Town's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Town or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in Section 1-7 of this Ordinance.

**3. New Development and Re-Development**

Following the final completion of construction and the receipt of as-built drawings by the Town, the Town has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this section.

## SECTION 1-3

# STORMWATER QUANTITY MANAGEMENT

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### (a) APPLICABILITY AND EXEMPTIONS

The storage and controlled release rate of excess stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the Town of Sellersburg. The Town, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization.

### (b) POLICY ON STORMWATER QUANTITY MANAGEMENT

It is recognized that most streams and drainage channels serving the Town do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments (as defined in Appendix A) located within the Town. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, and compensatory floodplain storage rates are detailed in the Town of Sellersburg Stormwater Technical Standards.

### (c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Town of Sellersburg Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

### (d) PLACEMENT OF UTILITIES

No utility company may disturb existing storm drainage facilities without the consent of the Town staff, whose decision may be appealed to the Town Council of Sellersburg. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Section 1-7 of this ordinance.

### (e) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the approval of the Stormwater Management Permit by the Town and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to insure full compliance with the provisions of this section, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.

The Town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed Operation & Maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the Town. If deficiencies are found during the inspection, the owner of the facility will be notified by the Town 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 Town will undertake the work and collect from the owner using lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved. Stormwater detention/retention

basins may be donated to the Town or other unit of government designated by the Town, for ownership and permanent maintenance providing the Town or other governmental unit is willing to accept responsibility in writing.



Replace both highlighted sections with:

SECTION 1-4 "the Construction Stormwater General Permit (CSGP)"

# **STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES**

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## **(a) APPLICABILITY AND EXEMPTIONS**

The Town of Sellersburg will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of the Town of Sellersburg that includes clearing, grading, excavation or other land disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section. This includes both new development and re-development. This section also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. Section 1-4 (c) provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of 327 IAC 15-5 (Rule 5) shall also be in compliance with 327 IAC 15-5.

The requirements under this section do not apply to the following activities:

1. agricultural land disturbing activities; or
2. forest harvesting activities.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under IC 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 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.

For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the Town, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with Section 1-6 of this Ordinance; regardless of whether the individual lot is part of a larger permitted project site.

An individual lot with land disturbance less than 10,000 square feet, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Town in accordance with Section 1-6 of this Ordinance. It will be the responsibility of the project site owner to ensure compliance with this Ordinance during the construction activity and implementation of the construction plan, and to notify the Town with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

## **(b) POLICY ON STORMWATER POLLUTION PREVENTION**

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling. For land disturbance of one (1) acre

or more, the developer must submit to the Town a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. For land disturbances totaling 10,000 square feet or more but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Town of Sellersburg Technical Standards must be designed and shown on the plans. The following principles apply to all land-disturbing activities and shall be considered in the preparation of a SWPPP within the corporate boundaries of the Town of Sellersburg.

1. Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.
2. Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent (within 35 feet of top of bank) to watercourses and lakes also should be left undisturbed wherever possible. Un-vegetated or vegetated areas with less than 70% cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.
3. All activities on a site should be conducted in a logical sequence 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 Stormwater Technical Standards Manual.
5. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
6. Appropriate measures shall be implemented to prevent wastes or unused building materials, including, garbage, debris, packaging material, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
7. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
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, shall be protected from pollutants associated with stormwater runoff.

### **(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS**

In calculating the total area of land disturbance, for the purposes of determining applicability of this section to a project, the following guidelines should be used:

1. Off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, and other utilities) to a land disturbing project site, must be considered as a part

of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

2. Strip developments will be considered as one (1) project site and must comply with this chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
3. To determine if multi-lot project sites are regulated by this section, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
  - i. For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
  - ii. For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.
  - iii. To calculate lot disturbance on all other types of projects sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the "Indiana Stormwater Quality Manual" and the Town of Sellersburg Stormwater Technical Standards Manual. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of IDEM's Rule 5. A Copy of the Indiana Stormwater Quality Manual may be obtained through IDEM.

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#### **(d) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING**

Following approval of the Stormwater Management Permit by the Town and commencement of construction activities, the Town has the authority to conduct inspections of the site to ensure full compliance with the provisions of this section, the approved Stormwater Pollution Prevention Plan, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.

A self-monitoring program must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A qualified professional, registered with the Town per Ordinance 2004-OR-026 shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measurable storm events within a given week, the site should be monitored at least once in that week. Weekly inspections by the qualified professional shall continue until the entire site has been stabilized and a Notice of Termination has been issued.

The qualified professional should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The qualified professional should also identify additional measures, beyond those originally identified in the stormwater pollution prevention plan, necessary to remain in compliance with all applicable statutes and regulations.

The resulting evaluation reports must include the name of the qualified professional performing the evaluation, the date of the evaluation, problems identified at the project site, and details of maintenance, additional measures, and corrective actions recommended and completed.

The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this section, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the qualified professional for modified stormwater quality measures should be implemented.

Although self-monitoring reports do not need to be submitted to the Town, the Town has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention

measures. All evaluation reports for the project site must be made available to the Town, in an organized fashion, within forty-eight (48) hours upon request.

## SECTION 1-5

# STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

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### (a) APPLICABILITY AND EXEMPTIONS

In addition to the requirements of Section 1-4, the stormwater pollution prevention plan, which is to be submitted to the Town as part of the Stormwater Management Permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the corporate boundaries of the Town of Sellersburg that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section. This includes both new development and re-development, and disturbances of land less than 10,000 square feet of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. In addition, regardless of the amount of disturbance, the Town of Sellersburg reserves the right to require pre-treatment Best Management Practices (BMP's) for proposed hot spot developments in accordance to provisions contained in the Town of Sellersburg Stormwater Technical Standards Manual.

The requirements under this section do not apply to the following activities:

1. agricultural land disturbing activities; or
2. forest harvesting activities; or
3. construction activities associated with a single family residential dwelling disturbing less than one (1) acre, when the dwelling is not part of a larger common plan of development or sale; or
4. individual building lots within a larger permitted project.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under IC 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 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.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Town in accordance with Section 1-6 of this Ordinance. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMP's (especially, the protection of post-stormwater BMP's during construction phase) in compliance with this Ordinance and with the approved Stormwater Management Permit, and to notify the Town with a sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

### (b) POLICY ON STORMWATER QUALITY MANAGEMENT

It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of the Town of Sellersburg, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of appropriate BMP's, stormwater runoff will be filtered, and harmful amounts of sediment, nutrients, and contaminants will be removed.

The project site owner must submit to the Town a SWPPP that shows placement of appropriate BMP's from a pre-approved list of BMP's specified in the Town of Sellersburg Stormwater Technical Standards Manual. The SWPPP submittal shall include an Operation and Maintenance (O&M) Manual for all post-construction BMP's included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in Appendix D of the Town of Sellersburg Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMP's, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP's must be designed, constructed, and maintained according to guidelines provided or referenced in the Town of Sellersburg Stormwater Technical Standards Manual. 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 guidelines provided in the Town of Sellersburg Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMP's are provided in the Town of Sellersburg Stormwater Technical Standards Manual.

**(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS**

Calculation of land disturbance should follow the guidelines discussed in Section 1-3(c).

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMP's shall meet the design criteria, standards, and specifications outlined in the Town of Sellersburg Stormwater Technical Standards Manual. The methods and procedures included in the referenced Standards is in keeping with the above stated policy and meet the requirements of IDEM's Rule 13.

**(e) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING**

After the approval of the Stormwater Management Permit by the Town and the commencement of construction activities, the Town has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the approved SWPPP the Town of Sellersburg Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

Stormwater quality facilities shall be maintained in good condition, in accordance with the Operation and Maintenance procedures and schedules listed in the Town of Sellersburg Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised, or replaced except as approved by the Town.

The Town also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.



## SECTION 1-6

# PERMIT REQUIREMENTS AND PROCEDURES

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### (a) PERMIT PROCEDURES

This section applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre shall refer to Sections 4 and 5 for plan review requirements and procedures. Figure 1 is a flowchart summarizing the plan review/permit approval process and can be found at the end of this section.

All projects located within the corporate boundaries of the Town of Sellersburg lie within the Town's MS4 area boundary by default. The project site owner shall submit an application for a Stormwater Management Permit to the Town. The application will include construction plan sheets, a stormwater drainage technical report, a SWPPP, and any other necessary support information. Specific information to be included in the application can be found in Section (b) below. Four (4) copies of each application must be submitted to the Town. The Town may, at its discretion, require one or more copies be submitted to the Clark County Surveyor, or other entity deemed appropriate by the Town. Additionally, a digital copy of the construction plans is required in a format accepted by the Town.

After the Town's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Town and/or its plan review consultant(s). Once the review has been completed, the Town Planning and Zoning Director or their designee will either approve the project, request modifications, or deny the project.

The project site owner must notify the Town and IDEM 48 hours before beginning construction. Notification shall be in the form of an updated IDEM NOI form. Once a permit has been issued and the updated NOI submitted to the Town and IDEM 48 hours before the beginning of construction, construction may commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit. Upon completion of construction activities, as-built plans must be submitted to the Town. A Notice of Termination (NOT) shall be sent to the Town once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed. The Town, or its representative, shall inspect the construction site to verify that the requirements for an NOT have been met. Once the applicant receives a "verified" copy of the NOT, they must forward a copy to IDEM. Permits issues under this scenario will expire 5 years from the date of issuance. If construction is not completed within 5 years, the NOI must be resubmitted at least 90 days prior to expiration.

### (b) INFORMATION REQUIREMENTS

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the "Applicability and Exemptions" Sections of Sections 1-1 through 1-5. If a project or activity is exempt from any or all requirements of this ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under Section c.

The different elements of a permit submittal include construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana.

#### 1. Construction Plans

Construction plan sheets (larger than 11" by 17", but not to exceed 24" by 36" in size) shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be

accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans need to include items listed in the application checklist provided in the Town of Sellersburg Stormwater Technical Standards Manual.

**2. Stormwater Drainage Technical Report**

A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the application checklist provided in the Town of Sellersburg Stormwater Technical Standards Manual.

**3. Stormwater Pollution Prevention Plan (SWPPP) for Construction Sites**

For sites with total disturbance of one (1) acre or more, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Ordinance. The SWPPP and construction plans must include the items listed in the application checklist provided in the Town of Sellersburg Stormwater Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Town of Sellersburg Technical Standards must be designed and shown on the plans.

**4. Post-Construction Storm Water Pollution Prevention Plan**

For sites with total land disturbance of 10,000 square feet or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the Town of Sellersburg Stormwater Technical Standards Manual. The post-construction storm water pollution prevention plan must include items listed in the application checklist provided in the Town of Sellersburg Stormwater Technical Standards Manual.

**(c) CHANGES TO PLANS**

Any changes or deviations in the detailed plans and specifications after approval of the applicable Stormwater Management Permit shall be filed with, and accepted by, the Town of Sellersburg prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

**(d) REQUIRED ASSURANCES**

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the Town or retained privately. As a condition of approval and issuance of the permit, the Town of Sellersburg shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 110 percent of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's, as regulated under this Ordinance, until the construction is completed, the site is stabilized, and as-built plans are accepted by the Town. Assurances shall be for a minimum of \$5,000. All other performance bonds, maintenance bonds or other assurances required by the Town in accordance with any and all other ordinances shall also apply and so be required. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

**(e) CERTIFICATION OF AS-BUILT PLANS**



This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the Town or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in Section (g) above, a professionally prepared and certified 'as-built' set of plans (record drawings) shall be submitted to the Town for review. These as-built plans/record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the 'as-built' plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the Town. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

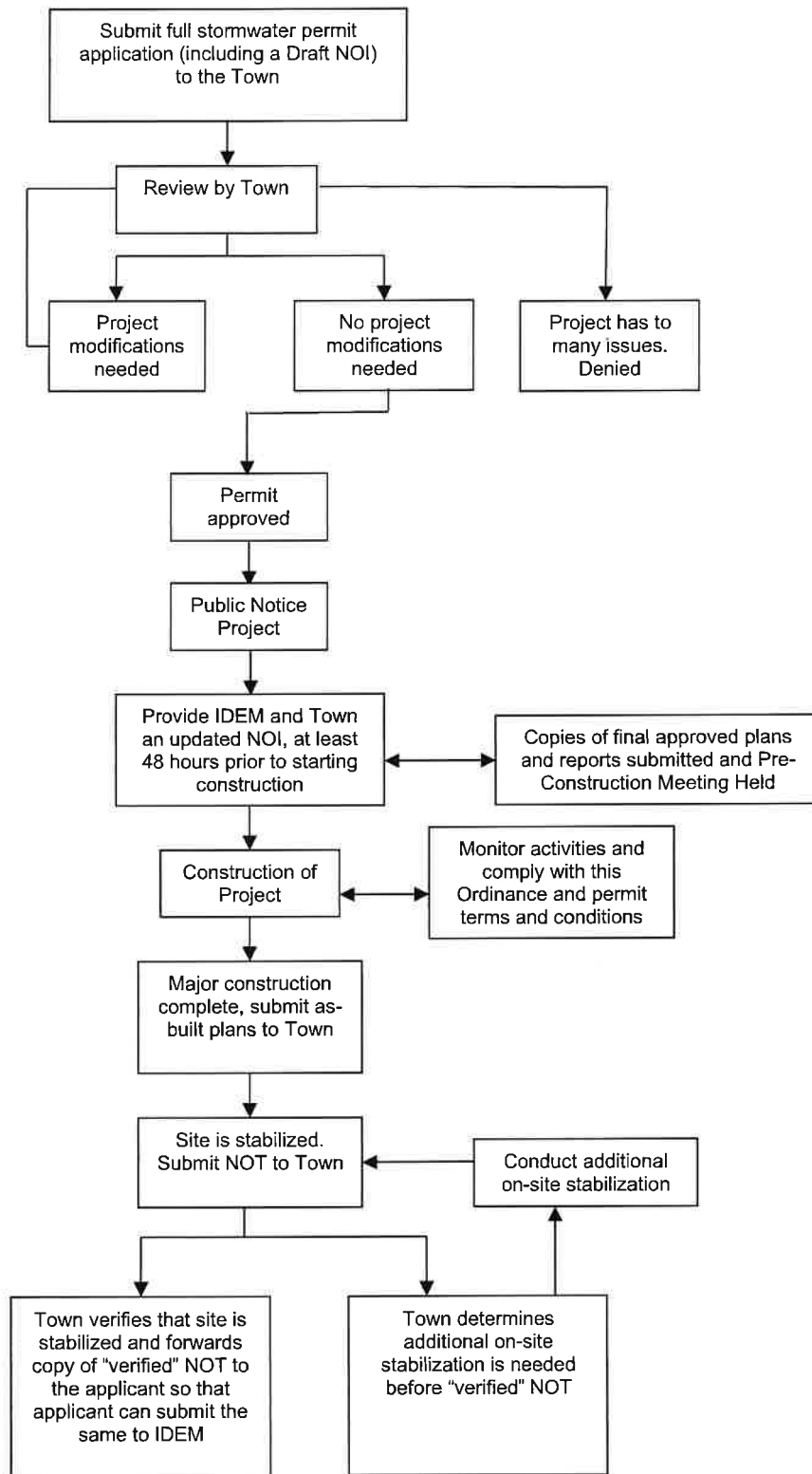
1. Pipe size and pipe material
2. Invert elevations
3. Top rim elevations
4. Elevation of the emergency overflow (spillway) for ponds
5. Grades along the emergency flood routing path(s)
6. Pipe structure lengths
7. BMP types, dimensions, and boundaries/easements
8. "As-planted" plans for BMP's, as applicable
9. Data and calculations showing detention basin storage volume
10. Data and calculations showing BMP treatment capacity
11. Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the Stormwater Management Permit as approved by the Town. (See certificate in the Stormwater Technical Standards Manual.

The property owner, developer, or contractor shall be required to file a three-year maintenance bond or other acceptable guarantee with the Town in an amount not to exceed twenty five percent (25%) of the cost of the stormwater management system, and in a form satisfactory to the Town in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Ordinance. The bond or other acceptable guarantee shall be in effect for a period of three years after the date of the release of required performance assurances referenced in Section (g) above. The beneficiary of all maintenance bonds shall be the Town Council of the Town of Sellersburg.

To verify that all stormwater infrastructure is functioning properly, visual recordings (via closed circuit television) of such infrastructure, including all subsurface drains, shall be required twice, once following the completion of installation of the stormwater management system and submittal of as-builts, and the second time before release of maintenance bonds. These visual recordings will be scheduled by the Town and paid for by the developer. Notices shall be provided to the Town within 72 hours following the completion of installation and again at least 60 days prior to the expiration date of the maintenance bond so that the noted recordings may be scheduled. Reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the Town before the plat is recommended for recording and again before the maintenance bond shall be recommended to be released.



**Figure 1: Permit Approval Process**



## SECTION 1-7

# ENFORCEMENT

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### (a) COMPLIANCE WITH THIS ORDINANCE

In addition to the requirements of this Ordinance, compliance with the requirements set forth in the local Zoning Ordinances is also necessary. Compliance with all applicable ordinances of the Town of Sellersburg as well as with applicable State of Indiana statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. Violations of the requirements of this Ordinance are subject to the penalties listed below.

#### 1. Violations

Any action or inaction which violates the provisions of this Ordinance, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Section. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

#### 2. Warning Notice

When the Town finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town may serve upon that person a written Warning Notice, specifying 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 Town to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

### (b) ENFORCEMENT OF THIS ORDINANCE

#### 1. Notice of Violation/Citation

If the Town determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the provisions of this ordinance, it shall issue a written Notice of Violation to such applicant or other responsible person and the owner of the property. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation can be in the form of a citation ticket and/or a written letter that would contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

#### 2. Compensatory Action

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

#### 3. Civil Penalties for Violations

Any person found in violation of any provision of this Ordinance shall be responsible for a civil infraction and subject to a maximum fine of \$2,500 for each offense, plus costs, damages, and expenses. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law.

An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

Any person who aids or abets a person in a violation of this Ordinance shall be subject to the penalties provided in this section.

For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The issuance of fines shall be guided by the schedule below. The Town reserves the right to issue a maximum fine for any violation deemed sufficiently egregious or otherwise determined by the Town to warrant a maximum penalty.

<b>Ordinance Section 1-2 Illicit Discharges - Table of Fines</b>			
<b>Fine Category</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
Residential	Warning and Cleanup Costs	\$250 and Cleanup Costs	\$500 & Cleanup Costs
Commercial Industrial Institutional	Warning and Cleanup Costs	\$1,500 and Cleanup Costs	\$2,500 & Cleanup Costs

<b>Ordinance Section 1-4 Construction Activities - Table of Fines</b>			
<b>Fine Category</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
Individual Lot (Residential)	Warning & Cleanup Costs	\$350 & Cleanup Costs	\$750 & Cleanup Costs
Commercial Lot or Multi-Parcel Development (i.e., subdivision, commercial, industrial, institutional)	Warning & Cleanup Costs	\$1,000 & Cleanup Costs	\$2,500 & Cleanup Costs

#### 4. Stop Work Order

In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this Ordinance or accepted final stormwater management plans, the Town may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Town to proceed with the work. A Stop Work Order will be posted on the site by the Town and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Town.

The Town may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

Any person who neglects or fails to comply with a stop work order shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1,000, and such person shall also pay such costs as may be imposed in the discretion of the court. A permit reinstatement fee may also be assessed by the Town.

**5. Withhold Certificate of Occupancy**

The Town may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this ordinance as determined by the Town.

**6. Suspension, Revocation, or Modification of Permits**

The Town may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Town of Sellersburg may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

**7. Suspension of Access to the Stormwater Drainage System**

**i. Emergency Cease and Desist Orders**

When the Town finds that any person has violated, or continues to violate, any provision of this ordinance, 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 United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and 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 Town may take such steps as deemed necessary to prevent or minimize harm to the stormwater drainage system or waters of the United States, 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 Town may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town within 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.

**ii. Suspension Due to Illicit Discharges in Emergency Situations**

The Town may, without prior notice, suspend stormwater drainage system 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 stormwater drainage system or waters of the state if the violator fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the state, or to minimize danger to persons.

**iii. Suspension Due to the Detection of Illicit Discharge**

Any person discharging to the stormwater drainage system in violation of this ordinance may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The Town will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the Town for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this Section, without the prior approval of the Town.

**8. Criminal Penalties for Violations**

For intentional and flagrant violations of this ordinance, the Town may issue a notice to the applicant or other responsible person and the owner of the property, requiring such person to appear in the Circuit or Superior Court of Clark County to answer charges for such violation. Upon conviction, such person shall be punished by a fine as set by the Town Council of Sellersburg, plus costs, damages, and expenses or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**(c) COST OF ABATEMENT OF THE VIOLATION**

In addition to any other remedies, should any owner fail to comply with the provisions of this ordinance, the Town may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the Town for all costs of such work.

Nothing herein contained shall prevent the Town from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the Town's NPDES permit, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this Ordinance, including sampling and monitoring expenses.

If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the Town 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.

**(d) APPEALS**

**1. Appeal of Notice of Violation**

Any person to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Unsafe Building Commission of Sellersburg the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Unsafe Building Commission of Sellersburg shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed.

In considering any such appeal, the Unsafe Building Commission of Sellersburg may consider the recommendations of the Town of Sellersburg Staff and/or engineering consultant and the comments of other persons having knowledge of the matter. In considering any such appeal, the Unsafe Building Commission of Sellersburg may recommend a variance from the terms of this Ordinance to the Town Council of Sellersburg to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- i. The application of the Ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Ordinance; and
- ii. The granting of the relief requested will not substantially prevent the goals and purposes of this Ordinance, nor result in less effective management of stormwater runoff.

**2. 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 5 days of the decision of the Town Council upholding the decision of the Unsafe Building Commission then representatives of the Town of Sellersburg 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, agent or person in possession of any premises to refuse to allow the Town or its designated contractor to enter upon the premises for the purposes set forth above.



# ABBREVIATIONS AND DEFINITIONS

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## ABBREVIATIONS

<b>BMP</b>	Best Management Practice
<b>COE</b>	United States Army Corps of Engineers
<b>CWA</b>	Clean Water Act
<b>EPA</b>	Environmental Protection Agency
<b>GIS</b>	Geographical Information System
<b>IDEM</b>	Indiana Department of Environmental Management
<b>MS4</b>	Municipal Separate Storm Sewers
<b>NRCS</b>	USDA-Natural Resources Conservation Service
<b>NPDES</b>	National Pollution Discharge Elimination System
<b>POTW</b>	Publicly Owned Treatment Works
<b>SWCD</b>	Soil and Water Conservation District
<b>SWPPP</b>	Stormwater Pollution Prevention Plan
<b>USDA</b>	United States Department of Agriculture
<b>USFWS</b>	United States Fish and Wildlife Service

## DEFINITIONS

**A B C D E F G H I J K L M N O P Q R S T U V W X Y Z**

**Agricultural land disturbing activity.** Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage pipe. For purposes of this rule, the term does not include land disturbing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands; and other infrastructure.

**Base Flow.** Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

**Best Management Practices.** Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

**Buffer Strip.** An existing, variable width strip of vegetated land intended to protect water quality and habitat.

**Capacity (of a Storm Drainage Facility).** The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.



**Catch Basin.** A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

**Channel.** A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

**Comprehensive Stormwater Management.** A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

**Constructed Wetland.** A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

**Construction activity.** Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

**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.

**Contiguous.** Adjoining or in actual contact with.

**Contour.** An imaginary line on the surface of the earth connecting points of the same elevation.

**Contour Line.** Line on a map which represents a contour or points of equal elevation.

**Contractor 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 on the project site.

**Conveyance.** Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

**Cross Section.** A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

**Culvert.** A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

**Dechlorinated swimming pool discharge.** Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

**Design Storm.** A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

**Detention.** Managing stormwater runoff by temporary holding and controlled release.

**Detention Basin.** A facility constructed or modified to restrict the flow of storm water to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

**Detention Storage.** The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

**Detention Time.** The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

**Detritus.** Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

**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.

**Development.** Any man-made change to improved or unimproved real estate including but not limited to:

1. Construction, reconstruction, or placement of a building or any addition to a building;
2. Construction of flood control structures such as levees, dikes, dams or channel improvements;
3. Construction or reconstruction of bridges or culverts;
4. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than hundred eight (180) days;
5. Installing utilities, erection of walls, construction of roads, or similar projects;
6. Mining, dredging, filling, grading, excavation, or drilling operations;
7. Storage of materials; or
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

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

**Discharge.** Usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.

**Disposal.** The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

**Ditch.** A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

**Drain.** A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

**Drainage.** The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see Natural drainage.

**Drainage Area.** The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

**Dry Well.** A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

**Duration.** The time period of a rainfall event.

**Environment.** The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

**Erodibility Index (EI).** The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of  $(R_x K_x L S)/T$  (from the Universal

Soil Loss Equation) and  $(Cxl)/T$  (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than 8 are considered highly erodible land.

**Erosion.** The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

- *Accelerated erosion*--Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
- *Channel erosion* --An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- *Gully erosion* --An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 ft. to as much as 75-100 ft.
- *Rill erosion*--An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see Rill).
- *Splash erosion*--The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.
- *Sheet erosion*--The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

**Erosion and sediment control.** A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

**Filter Strip.** Usually a long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

**Floatable.** Any solid waste that will float on the surface of the water.

**Flood (or Flood Waters).** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Floodplain.** The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 1% annual chance flood event. Any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

**Floodway.** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

**Floodway Fringe.** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

**Footing Drain.** A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

**Garbage.** All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

**Gasoline outlet.** An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

**Geographical Information System.** A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

**Grade.** (1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance. (2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

**Grading.** The cutting and filling of the land surface to a desired slope or elevation.

**Grass.** A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

**Groundwater.** Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

**Habitat.** The environment in which the life needs of a plant or animal are supplied.

**Highly Erodible Land (HEL).** Land that has an erodibility index of eight or more.

**Hot Spot Development.** Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

**Hydrologic Unit Code.** A numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

**Hydrology.** The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

**Illicit Discharge.** Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs.

**Impaired Waters.** Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

**Impervious surface.** Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

**Individual building lot.** A single parcel of land within a multi-parcel development.

**Individual lot operator.** A contractor or subcontractor working on an individual lot.

**Individual lot owner.** A person who has financial control of construction activities for an individual lot.

**Infiltration.** Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of run-off through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

**Inlet.** An opening into a storm drain system for the entrance of surface storm water runoff, more completely described as a storm drain inlet.

**Land-disturbing Activity.** Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

**Land Surveyor.** A person licensed under the laws of the State of Indiana to practice land surveying.

**Larger common plan of development or sale.** A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

**Lowest Adjacent Grade.** The elevation of the lowest grade adjacent to a structure, where the soil meets the foundation around the outside of the structure (including structural members such as basement walkout, patios, decks, porches, support posts or piers, and rim of the window well.

**Lowest Floor.** Refers to the lowest of the following:

1. The top of the basement floor;
2. The top of the garage floor, if the garage is the lowest level of the building;
3. The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
4. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - a] The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two opening (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
  - b] Such enclosed space shall be usable only for the parking of vehicles or building access.

**Manhole.** Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

**Measurable storm event.** A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

**Mulch.** A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

**Municipal Separate Storm Sewers.** An MS4 meets all the following criteria: (1) is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity; (2) discharges to waters of the U.S.; (3) is designed or used for collecting or conveying stormwater; (4) is not a combined sewer; and, (5) is not part of a Publicly Owned Treatment Works (POTW).

**Refueling area.** An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

**National Pollutant Discharge Elimination System.** A permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

**Natural Drainage.** The flow patterns of stormwater run-off over the land in its pre-development state.

**Nutrient(s).** (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

**Open Drain.** A natural watercourse or constructed open channel that conveys drainage water.

**Open Space.** Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

**Outfall.** The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

**Outlet.** The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

**Peak Discharge (or Peak Flow).** The maximum instantaneous flow from a given storm condition at a specific location.

**Percolation.** The movement of water through soil.

**Permanent stabilization.** The establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

**Pervious.** Allowing movement of water.

**Point Source.** Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or maybe discharged (P.L. 92-500, Section 502[14]).

**Porous pavement.** A type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils

**Professional Engineer.** A person licensed under the laws of the State of Indiana to practice professional engineering.

**Project site.** The entire area on which construction activity is to be performed.

**Project site owner.** The person required to submit a stormwater permit application, and required to comply with the terms of this ordinance, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

**Qualified Professional.** An individual who is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by professional certification or completion of coursework that enable the individual to make sound, professional judgements regarding stormwater control, treatment and monitoring, pollutant fate and transport, and drainage planning.

**Rain garden.** A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

**Receiving Stream, Receiving Channel, or Receiving Water.** The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

**Recharge.** Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

**Redevelopment.** Development occurring on a previously developed site.

**Regional Pond.** A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

**Regulatory Flood.** The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "regulatory flood" is also known as the "base flood".

**Regulatory Floodway.** See Floodway.

**Release Rate** - The amount of storm water release from a storm water control facility per unit of time.

**Reservoir.** A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

**Retention.** The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

**Retention basin.** A type of storage practice, that has no positive outlet, used to retain storm water runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

**Return Period** - The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent probability of being equaled or exceeded in any one year.

**Riparian zone.** Of, on, or pertaining to the banks of a stream, river, or pond.

**Riparian habitat.** A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

**Runoff.** That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

**Runoff Coefficient** - A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as storm water runoff.

**Sediment.** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

**Sedimentation.** The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

**Sensitive Water.** A waterbody in need of priority protection or remediation base on its: providing habitat for threatened or endangered species, usage as a public water supply intake, relevant community value, usage for full body contact recreation, exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

**Site.** The entire area included in the legal description of the land on which land disturbing activity is to be performed.

**Slope.** Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise)--e.g., 2:1. However, the preferred method for designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards (Metric), the slopes are presented as the vertical or width component shown on the numerator--e.g., 1V:2H. Slope expressions in this Ordinance follow the common presentation of slopes--e.g., 2:1 with the metric presentation shown in parentheses--e.g., (1V:2H). Slopes can also be expressed in "percents". Slopes given in percents are always expressed as (100\*V/H) --e.g., a 2:1 (1V:2H) slope is a 50% slope.

**Soil.** The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

**Soil and Water Conservation District.** A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of state government with a local governing body, established under IC 14-32.

**Solid Waste.** Any garbage, refuse, debris, or other discarded material.

**Spill.** The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

**Storm Duration.** The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

**Storm Event.** An estimate of the expected amount of precipitation within a given period of time. For example, a 10-yr. frequency, 24-hr. duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hr. period.

**Storm Sewer.** A closed conduit for conveying collected storm water, while excluding sewage and industrial wastes. Also called a storm drain.

**Stormwater.** Water resulting from rain, melting or melted snow, hail, or sleet.

**Stormwater Management System.** A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's.

**Stormwater Pollution Prevention Plan.** A plan developed to minimize the impact of storm water pollutants resulting from construction activities.

**Stormwater Runoff.** The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

**Stormwater Quality Management Plan.** A comprehensive written document that addresses stormwater runoff quality.

**Stormwater Quality Measure.** A practice, or a combination of practices, to control or minimize pollutants associated with storm water runoff.

**Stormwater Drainage System** - All means, natural or man-made, used for conducting storm water to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

**Strip Development.** A multi-lot project where building lots front on an existing road.

**Subdivision, Major.** A subdivision of a parcel of land into more than four (4) residential, commercial or industrial lots or any size subdivision requiring any new street.

**Subdivision, Minor.** The subdivision of a parent tract into any combination of not more than three (3) contiguous or non-contiguous new residential, commercial or industrial building site or the reconfiguration of existing lots that create new building sites and which does not involve the construction or extension of public or private streets, or, under the standards set forth in the Town's Subdivision Regulations and /or Subdivision Control Ordinance, does not involve substantial improvement or realignment of any existing publicly maintained street or road.

**Subsurface Drain.** A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.



**Surface Runoff.** Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

**Swale.** An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

**Temporary Stabilization.** The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of seventy percent (70%) across the disturbed area.

**Tile Drain.** Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

**Topographic Map.** Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

**Topography.** The representation of a portion of the earth's surface showing natural and man-made features of a give locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

**Urban Drain.** A drain defined as "Urban Drain" in Indiana Drainage Code.

**Urbanization** The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

**Vegetated swale.** A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

**Water Quality.** A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

**Water Resources.** The supply of groundwater and surface water in a given area.

**Waterbody.** Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

**Watercourse.** Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

**Watershed.** The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facilities. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

**Watershed Area.** All land and water within the confines of a drainage divide. See also Watershed.

**Wetlands.** Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.



STATE OF INDIANA

BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

**RESOLUTION NO. 2024 – R – 005**

**A RESOLUTION AMENDING THE PROPERTY TO BE TRANSFERRED AND ALL RELEVANT DOCUMENTS IN RESOLUTION 2024 – R – 003 APPROVING THE TRANSFER OF CERTAIN PROPERTY WITH THE BOARD OF SCHOOL TRUSTEES OF THE SILVER CREEK SCHOOL CORPORATION, CLARK COUNTY, INDIANA.**

**WHEREAS**, this Town Council of Sellersburg, Indiana (the “Town”) is the town legislative body of the town and the President of the town council is the town executive pursuant to Ind. Code § 36-5-2 *et seq.*; and,

**WHEREAS**, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, pursuant to Ind. Code § 5-22-22-10, a purchasing agency may exchange property with another governmental body upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity. In addition, a transfer under this section may be made for any amount of property or cash as agreed upon by the governmental bodies; and,

**WHEREAS**, Ind. Code § 36-1-11-8 authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities, as evidenced by the adoption of a substantially identical resolution by the governing body of each entity; and,

**WHEREAS**, the Silver Creek School Corporation (the “School Corporation”) is the owner of real property located at 206 N New Albany Street, Sellersburg, Indiana 47172 consisting of four (4) parcels—Parcel Nos. (1) 10-17-11-100-727.000-031, (2) 10-17-11-100-729.000-031, (3) 10-17-11-100-254.000-031 and (4) 10-17-11-100-237.000-31—and structures not used by the School Corporation for classroom instruction (collectively referred to as the “SCSC Property”); and,

**WHEREAS**, the Town is the owner of real property located at 411 Oak Street, Sellersburg, Indiana consisting of Parcel No. 10-17-11-100-741.000-031 (“Town Property”); and,

**WHEREAS**, the Town has previously adopted Resolution 2024 – R – 003 approving the transfer of Parcel Nos. 10-17-11-100-726.000-031 and 10-17-11-100-741.000-031; and,

**WHEREAS**, the School Corporation has previously adopted the same or similar resolution to exchange Town Property with SCSC Property; and,

**WHEREAS**, the parties never effectuated the transfer of said properties; and,

**WHEREAS**, the School Corporation has recently alerted the Town that they are going to sell the SCSC Property at the end of 2024 regardless of the Town’s decision to move forward with the transfer; and,

**WHEREAS**, the Town has decided to reengage with the School Corporation to only transfer the vacant field in Mosely Park, Parcel No. 10-17-11-100-741.000-031, (*Attached hereto as Exhibit A*) and not the pool or courts as previously agreed to; and

**WHEREAS**, the Town has been informed that the School Corporation will approve a resolution substantially identical to this Resolution. *Attached hereto as Exhibit B.*

**WHEREAS**, Said Resolution and Exhibit B include the following:

1. Purchase Agreement;
2. Depictions of Property;
3. Form of Deed; and,
4. Assignment of Growing Minds Lease.

**NOW THEREFORE, BE IT RESOLVED**, by Town Council of Sellersburg, Indiana (the “Town”) as follows:

**SECTION 1.** The foregoing Recitals are incorporated herein by this reference.

**SECTION 2.** Pursuant to the provisions of Ind. Code § 36-1-11-8, the Town hereby approves the transfer of the Town Property in accordance with the terms of the Purchase Agreement, in substantially the same form as Exhibit B.

**SECTION 3.** The transfer of the Town Property to the SCSC shall be by Limited Warranty Deed, the form of which will be similar to and in exchange for a transfer of the SCSC Property to the Town by Limited Warranty Deed pursuant to the Purchase Agreement.

**SECTION 4.** Prior to its acquisition, the Town and SCSC shall have a ninety (90) day due diligence period in which to conduct all due diligence activities necessary for its acceptance of the Property.

**SECTION 5.** The Town hereby authorizes, empowers, and directs the Town Manager and/or President of the Town Council to direct the completion of all due diligence activities provided for in the Purchase Agreement and to proceed to close the transfer of the Property in the event such due diligence results are acceptable in the view of the Town Manager and/or President, as advised by the Town's legal counsel. Should the Town not be satisfied by the findings of the due diligence, it shall not be bound by this Resolution or the Purchase Agreement.

**SECTION 6.** The Town further authorizes, empowers and directs the Town Manager and/or President of the Town Council to take all actions necessary to complete the transfer of the SCSC and Town Property in accordance with the Agreement and this Resolution and to execute all documents and receive the purchase price required in connection with the transfer of the SCSC and Town Property, including the assignment of leases and execution of leases, pursuant to this Resolution, and to take all other lawful action necessary to complete the transfer of the SCSC and Town Property as contemplated herein, with such revisions to the foregoing or attached documents as are acceptable to the Town Manager and/or President as evidenced by their signatures upon such documents.

**SECTION 7.** This Resolution is effective immediately upon its passage.

**THIS RESOLUTION** adopted this \_\_\_\_\_ day of December 2024 by at least a majority vote of this Council in a public meeting.

This Resolution shall be in full force and effect after its adoption by the Town Council of Sellersburg, Indiana.

*[Signature page to follow]*

**Signature Page for Resolution No. 2024 – R – 005 Amending the Property to be Transferred and All Relevant Documents in Resolution 2024 – R – 003 Approving the Transfer of Certain Property with the Board of School Trustees of the Silver Creek School Corporation, Clark County, Indiana**

“Aye”

“Nay”

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Brad Amos  
Council President

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Brad Amos  
Council President

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Terry Langford  
Council Vice President

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Terry Langford  
Council Vice President

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Scott McVoy  
Council 2<sup>nd</sup> Vice President

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Scott McVoy  
Council 2<sup>nd</sup> Vice President

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Matthew Czarnecki  
Council Member

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Matthew Czarnecki  
Council Member

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Randall Mobley  
Council Member

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Randall Mobley  
Council Member

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Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer

**EXHIBIT A TO RESOLUTION 2024 – R – 005**



**EXHIBIT B TO RESOLUTION 2024 – R – 005**

**RESOLUTION OF THE BOARD OF SCHOOL TRUSTEES OF THE SILVER CREEK SCHOOL CORPORATION, CLARK COUNTY, INDIANA, REGARDING TRANSFER OF REAL ESTATE AT 206 N NEW ALBANY STREET, SELLERSBURG, INDIANA 47172**

**WHEREAS**, the Silver Creek School Corporation (the “School Corporation”) is the owner of real property located at 206 N New Albany Street, Sellersburg, Indiana 47172 consisting of four (4) parcels—Parcel Nos. (1) 10-17-11-100-727.000-031, (2) 10-17-11-100-729.000-031, (3) 10-17-11-100-254.000-031 and (4) 10-17-11-100-237.000-31 and structures not used by the School Corporation for classroom instruction (collectively referred to as the “SCSC Property”);

**WHEREAS**, the Town of Sellersburg (“Town”) is the owner of real property of approximately 4.16 acres located at Oak Street, Sellersburg, IN 47172, which is Parcel No. 10-17-11-100-741.000-031 as more accurately depicted in the Agreement (“Town Property”);

**WHEREAS**, the School Corporation has expressed its willingness to transfer the ownership of the SCSC Property as more specifically depicted in the Purchase Agreement, attached hereto as Exhibit A and incorporated by reference herein in exchange for the Town Property on the terms contained herein; and

**WHEREAS**, the transfer and exchange of real property shall be on the terms of the Purchase Agreement attached hereto;

**WHEREAS**, Indiana Code § 36-1-11-8 authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities, as evidenced by the adoption of a substantially identical resolution by the governing body of each entity; and

**WHEREAS**, the School Corporation has been informed that the Town will approve a resolution substantially identical to this Resolution.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of School Trustees of the Silver Creek School Corporation (“Board of School Trustees”) as follows:

**SECTION 1.** The foregoing Recitals are incorporated herein by this reference.

**SECTION 2.** Pursuant to the provisions of Indiana Code § 36-1-11-8, the Board of School Trustees hereby approves the transfer of the SCSC Property in accordance with the terms of the Purchase Agreement, in substantially the same form as Exhibit A.

**SECTION 3.** The transfer of the SCSC Property to the Town shall be by Limited Warranty Deed, the form of which is attached as an exhibit to the Purchase Agreement in exchange for a transfer to the School Corporation of the Town Property by Limited Warranty Deed pursuant to the Purchase Agreement.



**SECTION 4.** Prior to its acquisition, the Town and SCSC shall have a due diligence period in which to conduct all due diligence activities necessary for its acceptance of the Property.

**SECTION 5.** The Board of School Trustees hereby authorizes, empowers, and directs the Superintendent to direct the completion of all due diligence activities provided for in the Purchase Agreement and to proceed to close the transfer of the SCSC and Town Property in the event such due diligence results are acceptable in the view of the Superintendent, as advised by the School Corporation's legal counsel and execute the agreements attached as Exhibits to the Purchase Agreement.

**SECTION 6.** The Board of School Trustees further authorizes, empowers and directs the Superintendent to take all actions necessary to complete the transfer of the SCSC and Town Property in accordance with the Agreement and this Resolution and to execute all documents and receive the purchase price required in connection with the transfer of the SCSC and Town Property, including the assignment of leases, pursuant to this Resolution, and to take all other lawful action necessary to complete the transfer of the SCSC and Town Property as contemplated herein, with such revisions to the foregoing or attached documents as are acceptable to the Superintendent as evidenced by her signature upon such documents.

**SECTION 7.** This Resolution is effective immediately upon its passage.

THIS RESOLUTION adopted this \_\_\_\_\_ day of December, 2024 by at least a majority vote of the entire Board in a public meeting.

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Joseph C. Rountree  
President  
Board of School Trustees

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Christina Franklin  
Secretary  
Board of School Trustees

4775898.5

**EXHIBIT A TO RESOLUTION OF THE BOARD OF SCHOOL TRUSTEES OF  
THE SILVER CREEK SCHOOL CORPORATION, CLARK COUNTY,  
INDIANA, REGARDING TRANSFER OF A PORTION OF REAL ESTATE AT  
206 N NEW ALBANY STREET, SELLERSBURG, INDIANA 47172**

## **PURCHASE AGREEMENT**

THIS PURCHASE AGREEMENT (this “**Agreement**”) is made as of the \_\_\_ day of \_\_\_\_\_, 2024 (the “**Effective Date**”) by and between **THE SILVER CREEK SCHOOL CORPORATION**, an Indiana public school corporation, which is a subdivision of the State of Indiana (“**Seller**”), and **THE TOWN OF SELLERSBURG**, which is a subdivision of the State of Indiana (“**Buyer**”).

### **RECITALS**

Seller desires to exchange property with Buyer, and Buyer desires to exchange property with Seller, the real property (as defined below), subject to and in accordance with the terms, conditions and other provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **1. DEFINITIONS**

The following capitalized terms shall have the meanings set forth in this Section 1 for all purposes under this Agreement:

1.1. Closing. The consummation of the transactions described herein as more fully described in Section 4 below.

1.2. Closing Date. The date mutually agreed to by Seller and Buyer following expiration of the Due Diligence Expiration Date, but no later than fifteen (15) days following the Due Diligence Expiration Date.

1.3. Due Diligence Expiration Date. The date that is sixty (60) days from the Effective Date stated in the preamble above.

1.4. Due Diligence Period. The period commencing on the Effective Date (or earlier if a party has previously entered on, or conducted investigations concerning, the Properties) and continuing until the Due Diligence Expiration Date.

1.5. Earnest Money. There is no payment of Earnest Money under this Agreement.

1.6. Obligations Surviving Termination. Sections 3.2, 15.12, 11 and 14.3.

1.7. SCSC Property. That certain real estate located in Clark County, Indiana commonly known as 206 New Albany Street, Sellersburg, Indiana and consists of four (4) parcels—Parcel Nos. (1) 10-17-11-100-727.000-031, (2) 10-17-11-100-729.000-031, (3) 10-17-11-100-254.000-031 and (4) 10-17-11-100-237.000-31—and structures not used by the School Corporation for classroom instruction (collectively referred to as the “SCSC Property”). The SCSC Property, consisting of approximately 2.42 acres, which is depicted on Exhibit A attached hereto. “SCSC Property” shall not be interpreted to include “school building” or “building” as

used by Indiana Code Ch. 20-26-7.1 as it was not used by the School Corporation for classroom instruction.

1.8. Town Property. That certain real estate of approximately 4.16 acres located in Clark County, Indiana commonly known as located at Oak Street, Sellersburg, IN 47172, and consists of Parcel No. 10-17-11-100-741.000-031, which is depicted on Exhibit B attached hereto (hereinafter referred to as “**Town Property**” and together with the SCSC Property, “**Properties**”).

1.9. Title Company. First American Title Company.

## 2. AGREEMENT TO SELL AND EXCHANGE

2.1. Agreement to Sell and Exchange. Seller agrees to transfer to Buyer the SCSC Property in exchange for Buyer agreeing to transfer Town Property to SCSC, subject to and in accordance with the terms, conditions and provisions hereof.

2.2. Payment of Purchase Price. Besides the exchange of property, there is no exchange of funds under this Agreement for the transfer of title in any property.

## 3. SELLER’S AND BUYER’S DELIVERIES; CONDITIONS PRECEDENT

3.1. Seller’s Deliveries. Except as otherwise expressly set forth in this Agreement, Seller makes no representations or warranties, either expressed or implied, and shall have no liability with respect to the accuracy or completeness of any reports, records, or other documentation or information relating to the Property provided to Buyer, and Buyer shall make its own independent inquiry regarding the economic feasibility, physical condition and legal status of the Property during the Due Diligence Period.

3.2. Buyer Inspections and Access. Buyer and its representatives shall be permitted to enter upon the SCSC Property at any reasonable time and from time to time during the Due Diligence Period to examine, inspect and investigate the SCSC Property (collectively, the “**Inspections**”), subject to the terms, conditions and limitations set forth in this Section 3.2.

(a) All of the Inspections shall be conducted at the expense of Buyer without contribution from Seller of any kind or amount.

(b) Buyer shall have a right to enter upon the SCSC Property for the purpose of conducting the Inspections and for no other purpose, and provided that in each such instance: (i) Buyer notifies Seller of such Inspections not less than 48 hours prior to such entry; (ii) Inspections are scheduled to accommodate the current tenant of the SCSC Property; and (iii) Buyer is in full compliance with all of the terms of this Agreement. At Seller’s election, a representative of Seller shall be present during any entry by Buyer or its representatives upon the SCSC Property for conducting said Inspections. Buyer shall take all necessary actions to insure that neither it nor any of its representatives shall interfere with the ongoing operations occurring at the SCSC Property during the course of performing any such Inspections, including operations of the tenant, and in no event shall Buyer or any persons acting on Buyer’s behalf be permitted to (i) enter any buildings on the Property or (ii) carry on any activities on the SCSC Property while tenant’s educational programming operations are in session, each without the prior written consent

of Seller. Buyer shall not cause or permit any mechanics' liens, materialmen's liens or other liens to be filed against the SCSC Property as a result of the Inspections.

(c) Buyer shall have the right to conduct any inspections, studies or tests that Buyer deems appropriate in determining the condition of the SCSC Property; provided, however, Buyer shall not be permitted to perform any Phase II environmental assessments or any tests that require the physical alteration of the SCSC Property (including, without limitation, borings or samplings), without the prior written consent of Seller in each instance.

(d) Buyer agrees to indemnify, defend and hold Seller and its board members, employees, and other agents and representatives (collectively, the "**Indemnified Parties**") harmless from and against any and all claims, losses, damages, costs and expenses including, without limitation, reasonable attorneys fees' and court costs, suffered or incurred by any of the Indemnified Parties arising out of or in connection with the activities of Buyer (or Buyer's employees, consultants, contractors or other agents) on or about the SCSC Property, including, without limitation, mechanics' liens, damage to the SCSC Property and injury to persons or property resulting from such activities. Without limiting the foregoing, in the event that the SCSC Property is damaged, disturbed or altered in any way as a result of such activities, Buyer shall promptly restore the SCSC Property to its condition existing prior to the commencement of such activities. Furthermore, Buyer agrees to maintain and cause all of its contractors and other representatives conducting any Inspections to maintain and have in effect workers' compensation insurance, with statutory limits of coverage, and commercial general liability insurance and limits of not less than Three Million Dollars (\$3,000,000), combined single limit, for personal injury, including bodily injury and death, and property damage. Such insurance shall name Seller and Seller's designees as additional insured parties. Buyer shall deliver to Seller, prior to commencing any Inspections, a certificate evidencing that the insurance required hereunder is in full force and effect.

(e) Buyer agrees to deliver to Seller complete copies of any written studies, reports, tests results or similar documents pertaining to the SCSC Property prepared by any third party for Buyer promptly upon Seller's request. Seller shall have no right to rely upon any document prepared by, or for, Buyer and Buyer's deliver of said documents shall not create any liability to Buyer for Seller's use or reliance thereon.

(f) Buyer shall have until the Due Diligence Expiration Date in which to conduct its due diligence investigations and analysis of the SCSC Property and of all information pertaining to the SCSC Property to determine whether the SCSC Property is acceptable to Buyer. If, during the Due Diligence Period, Buyer becomes aware of any problem or defect in the SCSC Property or other aspect of the SCSC Property which Buyer determines makes the SCSC Property unsuitable to Buyer, Buyer may, as its sole and exclusive right and remedy, terminate this Agreement by giving written notice of termination to Seller on or before the Due Diligence Expiration Date. If Buyer does not give such notice of termination on or before the Due Diligence Expiration Date, then this Agreement shall continue. In the event of such termination, neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination.

3.3. Seller Inspections and Access. Seller and its representatives shall be permitted to enter upon the Town Property at any reasonable time and from time to time during the Due Diligence Period to examine, inspect and investigate the Town Property (collectively, the “**Inspections**”), subject to the terms, conditions and limitations set forth in this Section 3.3.

(a) All of the Inspections shall be conducted at the expense of Seller without contribution from Buyer of any kind or amount.

(b) Seller shall have a right to enter upon the Town Property for the purpose of conducting the Inspections and for no other purpose, and provided that in each such instance: (i) Seller notifies Buyer of such Inspections not less than 48 hours prior to such entry; and (ii) Seller is in full compliance with all of the terms of this Agreement.

(c) Seller shall have the right to conduct any inspections, studies or tests that Seller deems appropriate in determining the condition of the Town Property; provided, however, Seller shall not be permitted to perform any Phase II environmental assessments or any tests that require the physical alteration of the Town Property (including, without limitation, borings or samplings), without the prior written consent of Buyer in each instance.

(d) Seller agrees to deliver to Buyer complete copies of any written studies, reports, tests results or similar documents pertaining to the Town Property prepared by any third party for Seller promptly upon Buyer’s request. Buyer shall have no right to rely upon any document prepared by, or for, Seller and Seller’s deliver of said documents shall not create any liability to Seller for Buyer’s use or reliance thereon.

(e) Seller shall have until the Due Diligence Expiration Date in which to conduct its due diligence investigations and analysis of the Town Property and of all information pertaining to the Town Property to determine whether the Town Property is acceptable to Seller. If, during the Due Diligence Period, Seller becomes aware of any problem or defect in the Town Property or other aspect of the Town Property which Seller determines makes the Town Property unsuitable to Seller, Seller may, as its sole and exclusive right and remedy, terminate this Agreement by giving written notice of termination to Buyer on or before the Due Diligence Expiration Date. If Seller does not give such notice of termination on or before the Due Diligence Expiration Date, then this Agreement shall continue. In the event of such termination, neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination.

3.4. Title and Survey.

(a) Promptly following the Effective Date, Buyer shall order a commitment for an owner’s policy of title insurance covering the SCSC Property issued by the Title Company (the “**Title Commitment**”) and deliver such Title Commitment to Seller promptly upon receipt. Buyer shall, at Buyer’s sole cost, within ten (10) days of the Effective Date order an ALTA survey of the SCSC Property (the “**Survey**”), which shall be certified to both parties, and otherwise in form and substance reasonably acceptable to both parties. Buyer shall have until the date that is forty-five (45) days after the Effective Date (the “**Title/Survey Review Date**”), for examination of the Title Commitment and Survey and the making of any objections thereto, said objections to be made in

writing and delivered to Seller on or before the Title/Survey Review Date. Buyer shall be deemed to have accepted all exceptions to the Title Commitment and the form and substance of the Survey, except only for matters expressly objected to in a written notice delivered to Seller on or before the Title/Survey Review Date. If any objections to the Title Commitment or Survey are properly made on or before the Title/Survey Review Date, Seller shall have the right, but not the obligation (except with respect to any mortgage lien, construction lien or other lien or encumbrance granted or created by Seller, which may be discharged by payment of a specified or ascertainable amount of money, on the Property entered into by Seller), on or before the date that is ten (10) days after the Title/Survey Review Date (the “**Seller Cure Date**”), to cure such objections (by removal or by endorsement or other method reasonably acceptable to Buyer) or to agree in writing to cure same prior to Closing. If the Seller does not cure said objections by Seller Cure Date (or agree to cure said objection by Closing), then Seller shall be deemed to have rejected Buyer’s request to cure. If the objections are not so cured by Seller (or agreed to be cured by Seller) and Buyer has not agreed to waive the applicable objections, then Buyer may, at its option, and as its sole and exclusive right and remedy, terminate this Agreement by written notice thereof delivered to Seller on or before the date that is five (5) days after the Seller Cure Date. If Buyer does not give such notice of termination on or before the date that is five (5) days after the Seller Cure Date, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 3.4(a), and this Agreement shall continue in full force and effect. In such event, all objections to the Title Commitment and Survey made by Buyer and not agreed to be cured by Seller shall be deemed waived by Buyer and Buyer shall accept title to the Property subject thereto. In the event Buyer timely exercises its right to terminate pursuant to this Section 3.4(a), neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination.

(b) Promptly following the Effective Date, Seller shall order a commitment for an owner’s policy of title insurance covering the Town Property issued by the Title Company (the “**Title Commitment**”) and deliver such Title Commitment to Buyer promptly upon receipt. Buyer has obtained, at Buyer’s costs, an ALTA survey of the Town Property (the “**Survey**”), which shall be certified to both parties, and otherwise in form and substance reasonably acceptable to both parties within seven (7) days of the Effective Date of this Agreement. Seller shall have until the date that is forty-five (45) days after the Effective Date (the “**Title/Survey Review Date**”), for examination of the Title Commitment and Survey and the making of any objections thereto, said objections to be made in writing and delivered to Buyer on or before the Title/Survey Review Date. Seller shall be deemed to have accepted all exceptions to the Title Commitment and the form and substance of the Survey, except only for matters expressly objected to in a written notice delivered to Buyer on or before the Title/Survey Review Date. If any objections to the Title Commitment or Survey are properly made on or before the Title/Survey Review Date, Buyer shall have the right, but not the obligation (except with respect to any mortgage lien, construction lien or other lien or encumbrance granted or created by Buyer, which may be discharged by payment of a specified or ascertainable amount of money, on the Town Property entered into by Buyer), on or before the date that is ten (10) days after the Title/Survey Review Date (the “**Buyer Cure Date**”), to cure such objections (by removal or by endorsement or other method reasonably acceptable to Seller) or to agree in writing to cure same prior to Closing. If the Buyer does not cure said objections by Buyer Cure Date (or agree to cure said objection by Closing), then Buyer shall be deemed to have rejected Seller’s request to cure. If the objections are not so cured by Buyer (or agreed to be cured by Buyer) and Seller has not agreed to waive the applicable

objections, then Seller may, at its option, and as its sole and exclusive right and remedy, terminate this Agreement by written notice thereof delivered to Buyer on or before the date that is five (5) days after the Buyer Cure Date. If Seller does not give such notice of termination on or before the date that is five (5) days after the Buyer Cure Date, Seller shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 3.4(b), and this Agreement shall continue in full force and effect. In such event, all objections to the Title Commitment and Survey made by Seller and not agreed to be cured by Buyer shall be deemed waived by Seller and Seller shall accept title to the Town Property subject thereto. In the event Seller timely exercises its right to terminate pursuant to this Section 3.4(b), neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination.

(c) Buyer may, within five (5) days after learning of same, or the Closing Date, whichever occurs first, notify Seller in writing of any objections to any title exceptions added to the Title Commitment (which do not relate to or arise out of actions by the Buyer) first arising between the Title/Survey Review Date and the Closing Date (such being referred to as “**Gap Objections**”). With respect to any Gap Objections, if Seller does not elect to cure any Gap Objections, Buyer shall have the option to terminate this Agreement (which option must be exercised within five (5) days after receipt of Seller’s response to any Gap Objections, or the Closing Date, whichever occurs first), in which event neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination. If Seller elects to attempt to cure any such Gap Objections, the Closing Date shall be automatically extended by a reasonable additional time to effect such a cure, but in no event shall the extension exceed thirty (30) days.

(d) Seller may, within five (5) days after learning of same, or the Closing Date, whichever occurs first, notify Buyer in writing of any objections to any title exceptions added to the Title Commitment (which do not relate to or arise out of actions by the Seller) first arising between the Title/Survey Review Date and the Closing Date (such being referred to as “**Gap Objections**”). With respect to any Gap Objections, if Buyer does not elect to cure any Gap Objections, Seller shall have the option to terminate this Agreement (which option must be exercised within five (5) days after receipt of Buyer’s response to any Gap Objections, or the Closing Date, whichever occurs first), in which event neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination. If Buyer elects to attempt to cure any such Gap Objections, the Closing Date shall be automatically extended by a reasonable additional time to effect such a cure, but in no event shall the extension exceed thirty (30) days.

3.5. Approval Of Governing Bodies. During the Approval Period, both Buyer and Seller shall have obtained the approval of their respective governing bodies to the terms and conditions of this transaction, subject to the satisfaction of all conditions precedent included herein.

#### 4. CLOSING

4.1. Time and Place. The Closing shall be held on the Closing Date in escrow through the Title Company. The parties agree to complete all arrangements for Closing prior to the Closing Date so that all requirements for Closing are in place by the end of the day prior to the Closing Date.



4.2. Deliveries. At Closing Seller and Buyer shall execute and deliver the following items:

(a) Seller shall execute and deliver to Buyer the following:

(i) a deed to the SCSC Property in the form of **Exhibit C** attached hereto;

(ii) a non-foreign transferor certification pursuant to Section 1445 of the Internal Revenue Code; and

(iii) a vendor's certificate in form sufficient to permit the Title Company to delete the so-called 'standard' exceptions (excepting any exception requiring a survey for deletion).

(b) Buyer shall execute and deliver to Seller the following:

(i) a deed to the Town Property in the form of **Exhibit C** attached hereto;

(c) Seller and Buyer shall jointly execute and deliver the following:

(i) a closing statement describing all prorations and other applicable credits;

(ii) an Indiana sales disclosure form;

(iii) an assignment of the Growing Minds Lease from the SCSC to the Town in the form of **Exhibit D**;

(iv) other documents reasonably necessary to consummate the transactions contemplated by this Agreement.

4.3. Closing Instructions to Title Company. The Closing shall be facilitated through an escrow established with the Title Company, using closing escrow instructions consistent with this Agreement. Notwithstanding the use of an escrow, the Closing shall be completed (with the escrow closed out) on the Closing Date, including the concurrent delivery of all required documents.

## 5. **PRORATIONS**

5.1. Generally. All items of income and expense applicable to the Properties shall be paid, prorated or adjusted as of the close of business on the day prior to the Closing Date. For purposes of calculating the prorations provided for in this Agreement, Buyer and Seller shall be deemed to be the owner of their respective Properties (*e.g.*, School Corporation owner of SCSC Property) on the Closing Date and shall receive the benefit of any income and have the liability of any expenses attributable to the Closing Date.

5.2. Real Estate Taxes and Assessments. Each of the parties anticipates that it will be exempt from any obligation to pay real estate taxes or any special assessments applicable to the Properties and therefor, the parties agree that there shall be no need to prorate and such taxes or assessments. If this proves incorrect, then the parties shall prorate such taxes and assessment as of the date of Closing in a manner customary for real estate transactions in Sellersburg, Indiana.

5.3. Prorations. Any operating expenses of the Properties shall be payable by Seller and Buyer in accordance with the parties' respective periods of ownership so that, as to SCSC Property, Seller pays all expenses attributable to the period prior to the Closing Date and Buyer pays all Taxes and expenses attributable to the period on or after the Closing Date, and vice versa as to Town Property. If either party receives a bill for expenses for which the other party is obligated, such other party shall pay such bill promptly after receipt thereof. If either party has prepaid any expenses as of the Closing Date, the other party shall reimburse the prepaying party at Closing for the portion thereof attributable to the period from and after the Closing Date.

## 6. SELLER'S REPRESENTATIONS AND WARRANTIES

6.1. List of Representations and Warranties. Seller hereby represents and warrants to Buyer the following matters, but only to the extent such matters are applicable to Seller or the SCSC Property:

(a) Conflicts. Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated conflict with or result in the material breach of any terms, conditions or provisions of or constitute a default under, any bond, note, or other evidence of indebtedness or any agreement to which Seller is a party.

(b) Leases. Seller and Growing Minds Preschool, LLC, an Indiana limited company ("**Growing Minds**") have entered into a lease and lease amendment(s) for space located at the SCSC Property ("**Growing Minds Lease**"). The Growing Minds Lease expires on May 31, 2026. Seller has provided Buyer with a copy of the Growing Minds Lease. As a condition of this Agreement, Buyer hereby agrees to accept the terms of the Growing Minds Lease and be bound by the terms of the Growing Minds Lease and execute the assignment of the Growing Minds Lease as depicted in **Exhibit D** to this Agreement and incorporated by reference herein. Notwithstanding the Growing Minds Lease, Seller has not entered into any leases or other occupancy agreements demising any portion of the SCSC Property that will continue after Closing, other than matters of record.

(c) Violations of Laws. Seller has not received any written notice that the Property is currently in violation of any applicable federal, state, or local environmental or other safety laws or regulations.

(d) Litigation. No demands, claims, or litigation, including but not limited to condemnation, eminent domain, or similar proceedings, has been served upon Seller with respect to ownership of or a real property interest in the SCSC Property that in the School Corporation's opinion remains outstanding.

(e) To the best of Seller's knowledge, there are no "Hazardous Materials" (as defined in Section 8.3) located on the Property.

6.2. Modifications to Representations and Warranties. The representations and warranties of Seller set forth in this Agreement shall be deemed remade as of Closing, provided that Seller may give Buyer on or before the Closing Date one or more notices of modification to such representations and warranties (each a “**Statement of Modifications**”), and such representations and warranties shall be deemed to remade as of Closing as modified by any Statement of Modifications. If Seller gives a Statement of Modifications to Buyer within five (5) days of the Closing Date, Buyer shall have five (5) days thereafter to exercise its termination right under Section 6.4 and the Closing Date shall be delayed accordingly.

6.3. Definition of Knowledge. As used in this Section 6 or other provisions of this Agreement, the term “**to Seller’s knowledge**” or any other reference to the knowledge of Seller shall mean and apply to the actual knowledge of Dr. Chad Briggs, Superintendent (the “**Seller Knowledge Individual**”), and not to any other persons or entities, (b) shall mean the actual (and not implied or constructive) knowledge of such individual, without any duty on such individual to conduct any investigation or inquiry of any kind, and (c) shall not apply to or be construed to apply to information or material which may be in the possession of Seller generally or incidentally, but which is not actually known to the Seller Knowledge Individual. Similarly, any reference to any written notice, claim, litigation, filing or other correspondence or transmittal to Seller set forth herein shall be limited to refer to only those actually received by or known to the Seller Knowledge Individual in the limited manner provided in clauses (a) - (e) above. Under no circumstances shall the Seller Knowledge Individual have any personal obligations or liabilities under this Agreement or otherwise.

6.4. Limitations Concerning Buyer’s Knowledge and Third-Party Protection. Notwithstanding anything contained in this Agreement to the contrary, all of the representations, warranties and certifications (collectively, the “**Representations**”) which are made by Seller and set forth herein or in any of the documents or instruments required to be delivered by Seller hereunder, shall be subject to the following conditions and limitations: (a) there shall be no liability on the part of Seller for any breach of a Representation arising from any matter or circumstance of which Buyer had knowledge at Closing (including matters and circumstances described in any Statement of Modifications); (b) in the event that prior to the time of Closing, during the course of Buyer’s inspections, studies, tests and investigations conducted pursuant to Section 3.2 hereof, or through other sources (including any Statement of Modifications), Buyer gains knowledge of a fact or circumstance which, by its nature, indicates that a Representation was or has become untrue or inaccurate, and such fact or circumstance was not intentionally withheld from Buyer by Seller with the intent to defraud Buyer, then Buyer shall not have the right to bring any lawsuit or other legal action against Seller, nor pursue any other remedies against Seller, as a result of the breach of the Representation caused thereby, but Buyer’s sole and exclusive right and remedy shall be to terminate this Agreement, in which event neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination; provided, however, that such right of termination shall not be available for breaches of Representations that have no material impact of the value of the SCSC Property; and (c) to the extent that Buyer receives or obtains estoppel certificates, insurance policies, guarantees, warranties or other items from third parties (collectively, “**Third-Party Protections**”) which provide a claim, cause of action, defense or other protection for Buyer with respect to liability for which Buyer may have a right of recourse against Seller hereunder, Buyer agrees to pursue its rights with respect to such Third-Party Protections prior to pursuing any rights against Seller

hereunder, and to pursue its rights against Seller only to the extent that such Third-Party Protections do not protect Buyer against such liability. Without limiting any other provision hereof, the parties hereto expressly acknowledge and agree that none of Seller's representations, warranties or covenants herein may be relied on by the Title Company, whether by subrogation or otherwise.

6.5. Other Limitations. Notwithstanding anything to the contrary set forth in this Agreement or in any other agreement or document delivered in connection herewith: (a) Seller shall have no liability whatsoever to Buyer for a breach of any representation, warranty, covenant, agreement or other requirement or provision hereof or thereof, unless the valid claims for all such breaches against Seller collectively aggregate more than the Liability Floor, in which event the full amount of such valid claims shall be actionable up to, but not in excess of, the Liability Cap in the aggregate for all liability; and (b) Seller shall not have any liability whatsoever to Buyer for a breach of any representation, warranty, covenant, agreement or other requirement or provision hereof or of any other agreement or document delivered in connection herewith, unless written notice containing a description of the specific nature of such breach shall have been given by Buyer to Seller within six (6) months after the Closing Date, and an action shall have been commenced by Buyer against Seller within two (2) months after such notice is provided to Seller. In no event shall Seller be liable for any incidental, consequential or punitive damages or for any damages in excess of the Liability Cap. For purposes of the foregoing: (A) "**Liability Floor**" shall mean Five Thousand and No/100 Dollars (\$5,000.00), and (B) "**Liability Cap**" shall mean Twenty-Five Thousand and No/100 Dollars (\$25,000.00).

## 7. BUYER'S REPRESENTATIONS AND WARRANTIES

7.1. List of Representations and Warranties. Buyer hereby represents and warrants to Seller the following matters, but only to the extent such matters are applicable to Buyer or the Town Property:

(a) Conflicts. Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated conflict with or result in the material breach of any terms, conditions or provisions of or constitute a default under, any bond, note, or other evidence of indebtedness or any agreement to which Buyer is a party.

(b) Leases. Buyer has not entered into any leases or other occupancy agreements demising any portion of the Town Property.

(c) Violations of Laws. Buyer has not received any written notice that the Town Property is currently in violation of any applicable federal, state, or local environmental or other safety laws or regulations.

(d) Litigation. No demands, claims, or litigation, including but not limited to condemnation, eminent domain, or similar proceedings, has been served upon Buyer with respect to ownership of or a real property interest in the Town Property that in the Town's opinion remains outstanding.

(e) To the best of Seller's knowledge, there are no "Hazardous Materials" (as defined in Section 8.3) located on the Property.

(f) Patriot Act. Buyer represents, warrants and covenants that neither Buyer nor any of its respective partners, officers, directors, members or shareholders (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (“**OFAC**”) pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the “**Order**”) and all applicable provisions of Title III of the USA Patriot Act (Public Law No. 107-56 (October 26, 2001)); (ii) is listed on the Denied Persons List and Entity List maintained by the United States Department of Commerce; (iii) is listed on the List of Terrorists and List of Disbarred Parties maintained by the United States Department of State, (iv) is listed on any list or qualification of “Designated Nationals” as defined in the Cuban Assets Control Regulations 31 C.F.R. Part 515; (v) is listed on any other publicly available list of terrorists, terrorist organizations or narcotics traffickers maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to the Order, the rules and regulations of OFAC (including without limitation the Trading with the Enemy Act, 50 U.S.C. App. 1-44; the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06; the unrepealed provision of the Iraq Sanctions Act, Publ.L. No. 101-513; the United Nations Participation Act, 22 U.S.C. § 2349 aa-9; The Cuban Democracy Act, 22 U.S.C. §§ 60-01-10; The Cuban Liberty and Democratic Solidarity Act, 18.U.S.C. §§ 2332d and 233; and The Foreign Narcotic Kingpin Designation Act, Publ. L. No. 106-120 and 107-108, all as may be amended from time to time); or any other applicable requirements contained in any enabling legislation or other Executive Orders in respect of the Order (the Order and such other rules, regulations, legislation or orders are collectively called the “**Orders**”); (vi) is engaged in activities prohibited in the Orders; or (vii) has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes or in connection with the Bank Secrecy Act (31 U.S.C. §§ 5311 et. seq.).

(g) Maintenance of Catalpa Street. Buyer represents and warrants that it will continue to maintain Catalpa Street in accordance with its customary and usual maintenance practices, including but not limited to snow and ice removal, repatching, pothole repair, and replacing asphalt, including any subsurfaces. Furthermore, Buyer represents and warrants that Catalpa Street will continue to be a public street for public access through both Town and School Corporation parcels.

7.2. Modifications to Representations and Warranties. The representations and warranties of Seller set forth in this Agreement shall be deemed remade as of Closing, provided that Seller may give Buyer on or before the Closing Date one or more notices of modification to such representations and warranties (each a “**Statement of Modifications**”), and such representations and warranties shall be deemed to remade as of Closing as modified by any Statement of Modifications. If Seller gives a Statement of Modifications to Buyer within five (5) days of the Closing Date, Buyer shall have five (5) days thereafter to exercise its termination right under Section 7.4 and the Closing Date shall be delayed accordingly.

7.3. Definition of Knowledge. As used in this Section 7 or other provisions of this Agreement, the term “**to Buyer’s knowledge**” or any other reference to the knowledge of Buyer shall mean and apply to the actual knowledge of Charlie Smith, Town Manager (the “**Buyer Knowledge Individual**”), and not to any other persons or entities, (b) shall mean the actual (and not implied or constructive) knowledge of such individual, without any duty on such individual to

conduct any investigation or inquiry of any kind, and (c) shall not apply to or be construed to apply to information or material which may be in the possession of Buyer generally or incidentally, but which is not actually known to the Buyer Knowledge Individual. Similarly, any reference to any written notice, claim, litigation, filing or other correspondence or transmittal to Buyer set forth herein shall be limited to refer to only those actually received by or known to the Buyer Knowledge Individual in the limited manner provided in clauses (a) - (g) above. Under no circumstances shall the Buyer Knowledge Individual have any personal obligations or liabilities under this Agreement or otherwise.

7.4. Limitations Concerning Seller's Knowledge and Third-Party Protection. Notwithstanding anything contained in this Agreement to the contrary, all of the representations, warranties and certifications (collectively, the "**Representations**") which are made by Buyer and set forth herein or in any of the documents or instruments required to be delivered by Buyer hereunder, shall be subject to the following conditions and limitations: (a) there shall be no liability on the part of Buyer for any breach of a Representation arising from any matter or circumstance of which Seller had knowledge at Closing (including matters and circumstances described in any Statement of Modifications); (b) in the event that prior to the time of Closing, during the course of Seller's inspections, studies, tests and investigations conducted pursuant to Section 3.3 hereof, or through other sources (including any Statement of Modifications), Seller gains knowledge of a fact or circumstance which, by its nature, indicates that a Representation was or has become untrue or inaccurate, and such fact or circumstance was not intentionally withheld from Seller by Buyer with the intent to defraud Seller, then Seller shall not have the right to bring any lawsuit or other legal action against Buyer, nor pursue any other remedies against Buyer, as a result of the breach of the Representation caused thereby, but Seller's sole and exclusive right and remedy shall be to terminate this Agreement, in which event neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination; provided, however, that such right of termination shall not be available for breaches of Representations that have no material impact of the value of the Town Property; and (c) to the extent that Seller receives or obtains estoppel certificates, insurance policies, guarantees, warranties or other items from third parties (collectively, "**Third-Party Protections**") which provide a claim, cause of action, defense or other protection for Seller with respect to liability for which Seller may have a right of recourse against Buyer hereunder, Seller agrees to pursue its rights with respect to such Third-Party Protections prior to pursuing any rights against Buyer hereunder, and to pursue its rights against Buyer only to the extent that such Third-Party Protections do not protect Seller against such liability. Without limiting any other provision hereof, the parties hereto expressly acknowledge and agree that none of Buyer's representations, warranties or covenants herein may be relied on by the Title Company, whether by subrogation or otherwise.

7.5. Other Limitations. Notwithstanding anything to the contrary set forth in this Agreement or in any other agreement or document delivered in connection herewith: (a) Buyer shall have no liability whatsoever to Buyer for a breach of any representation, warranty, covenant, agreement or other requirement or provision hereof or thereof, unless the valid claims for all such breaches against Buyer collectively aggregate more than the Liability Floor, in which event the full amount of such valid claims shall be actionable up to, but not in excess of, the Liability Cap in the aggregate for all liability; and (b) Buyer shall not have any liability whatsoever to Seller for a breach of any representation, warranty, covenant, agreement or other requirement or provision

hereof or of any other agreement or document delivered in connection herewith, unless written notice containing a description of the specific nature of such breach shall have been given by Seller to Buyer within six (6) months after the Closing Date, and an action shall have been commenced by Seller against Buyer within two (2) months after such notice is provided to Buyer. In no event shall Buyer be liable for any incidental, consequential or punitive damages or for any damages in excess of the Liability Cap. For purposes of the foregoing: (A) “**Liability Floor**” shall mean Five Thousand and No/100 Dollars (\$5,000.00), and (B) “**Liability Cap**” shall mean Twenty-Five Thousand and No/100 Dollars (\$25,000.00).

## **8. PURCHASE AS IS**

8.1. AS IS. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, BUYER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER THAT BUYER IS PURCHASING THE SCSC PROPERTY IN ITS “AS-IS, WHERE IS” CONDITION “WITH ALL FAULTS” AS OF THE CLOSING DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE SCSC PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE SCSC PROPERTY, (C) THE SUITABILITY OF THE SCSC PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE SCSC PROPERTY, (D) THE COMPLIANCE OF OR BY THE SCSC PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SCSC PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE SCSC PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE SCSC PROPERTY, (H) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE SCSC PROPERTY OR ANY OTHER ENVIRONMENTAL MATTER OR CONDITION OF THE SCSC PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE SCSC PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY CONTAINED IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE SCSC PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY

INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE SCSC PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT BUYER IS A SOPHISTICATED AND EXPERIENCED PURCHASER OF PROPERTIES SUCH AS THE SCSC PROPERTY AND HAS BEEN DULY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION OF THIS AGREEMENT. SELLER HAS MADE NO AGREEMENT WITH BUYER TO ALTER, REPAIR OR IMPROVE ANY OF THE SCSC PROPERTY AS PART OF THIS TRANSACTION.

LIKewise, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF BUYER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY BUYER TO SELLER AT CLOSING, SELLER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH BUYER THAT SELLER IS PURCHASING THE TOWN PROPERTY IN ITS "AS-IS, WHERE IS" CONDITION "WITH ALL FAULTS" AS OF THE CLOSING DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM OR ON BEHALF OF BUYER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF BUYER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY BUYER TO SELLER AT CLOSING, BUYER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE TOWN PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE TOWN PROPERTY, (C) THE SUITABILITY OF THE TOWN PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE TOWN PROPERTY, (D) THE COMPLIANCE OF OR BY THE TOWN PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE TOWN PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE TOWN PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE TOWN PROPERTY, (H) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE TOWN PROPERTY OR ANY OTHER ENVIRONMENTAL MATTER OR CONDITION OF THE TOWN PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE TOWN PROPERTY. SELLER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND



WARRANTIES OF BUYER EXPRESSLY CONTAINED IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY BUYER TO SELLER AT CLOSING, ANY INFORMATION PROVIDED BY OR ON BEHALF OF BUYER WITH RESPECT TO THE TOWN PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT BUYER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. BUYER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE TOWN PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT. SELLER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER IS A SOPHISTICATED AND EXPERIENCED PURCHASER OF PROPERTIES SUCH AS THE TOWN PROPERTY AND HAS BEEN DULY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION OF THIS AGREEMENT. BUYER HAS MADE NO AGREEMENT WITH SELLER TO ALTER, REPAIR OR IMPROVE ANY OF THE TOWN PROPERTY AS PART OF THIS TRANSACTION.

8.2. Release. Buyer acknowledges that it will have the opportunity to inspect the SCSC Property during the Due Diligence Period, and during such period, observe its physical characteristics and existing conditions and the opportunity to conduct such investigation and study on and of the SCSC Property and adjacent areas as Buyer deems necessary, and by Closing this transaction, Buyer shall be deemed to FOREVER RELEASE AND DISCHARGE Seller from all duties, obligations, responsibility and liability pertaining to the SCSC Property in any way, including but not limited to condition, valuation, salability, financability or utility of the SCSC Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the SCSC Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property), including without limitation liabilities under CERCLA, EXCEPT that this paragraph shall not be construed to release, discharge, or waive any claims against Seller relating to the breach of any representation or warranty made by Seller in this Agreement or the documents delivered at Closing (collectively, the “**Excluded Claims**”). Further by Closing this transaction, Buyer will be deemed to have WAIVED any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the SCSC Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the SCSC Property, with the exception of the Excluded Claims. Buyer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

Likewise, Seller acknowledges that it will have the opportunity to inspect the Town Property during the Due Diligence Period, and during such period, observe its physical characteristics and existing conditions and the opportunity to conduct such investigation and study on and of the Town Property and adjacent areas as Seller deems necessary, and by Closing this transaction, Seller shall be deemed to FOREVER RELEASE AND DISCHARGE Buyer from all duties, obligations, responsibility and liability pertaining to the Town Property in any way, including but not limited to condition, valuation, salability, financability or utility of the Town Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Town Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Town Property), including without limitation liabilities under CERCLA, EXCEPT that this paragraph shall not be construed to release, discharge, or waive any claims against Buyer relating to the breach of any representation or warranty made by Buyer in this Agreement or the documents delivered at Closing (collectively, the “**Excluded Claims**”). Further by Closing this transaction, Seller will be deemed to have WAIVED any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Town Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Town Property, with the exception of the Excluded Claims. Seller further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Town Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

8.3. Certain Definitions. For purposes hereof, (a) the term “**CERCLA**” means the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing Hazardous Materials as in effect on the date of this Agreement, together with its implementing regulations and guidelines as of the date of this Agreement; and (b) the term “**Hazardous Materials**” means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any applicable law, as currently in effect as of the date of this Agreement (ii) petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PCBs, (iv) lead, (v) friable asbestos, (vi) flammable explosives, (vii) infectious materials or (viii) radioactive materials.

8.4. Survival. The terms and conditions of this Article 8 shall expressly survive the Closing, not merge with the provisions of any closing documents and shall be deemed incorporated into the Deed. Seller acknowledges and agrees that the releases, waivers and disclaimers and other agreements set forth herein are an integral part of this Agreement and that Buyer would not have agreed to sell the Town Property to Seller in exchange for the SCSC Property without the releases, waivers and disclaimers and other agreements set forth above. Buyer acknowledges and agrees that the releases, waivers and disclaimers and other agreements set forth herein are an integral part



With a copy to: Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Attention: Jonathan L. Mayes

Notices to Buyer: Town of Sellersburg  
316 E Utica St,  
Sellersburg, Indiana 47172  
Attention: Charlie Smith

With a copy to: Jacob C. Elder  
501 E. Pearl St.  
New Albany, IN 47150

Notices shall be deemed given: (i) on the date delivered, if sent by hand delivery; (ii) one business day after delivery to the overnight carrier, if sent by nationally recognized overnight carrier; or (iii) three (3) business days after being mailed, if sent by certified mail, postage prepaid, return receipt requested. Notices may be sent by counsel for a party and such shall be deemed notice by the party so represented. Notices shall be deemed served as set forth above, even if such notices are rejected or delivery refused by the intended recipient.

## **12. CONDEMNATION**

If all or any material part of the SCSC Property is taken by eminent domain or if a legal proceeding seeking such taking by eminent domain is filed prior to the Closing Date by a governmental entity other than Buyer, then Buyer may, as its sole and exclusive right and remedy, terminate this Agreement by notice to Seller given on or before the earlier of (a) twenty (20) days after such taking or (b) the Closing Date, and, in the event of such termination, neither party shall have any further obligation under this Agreement, except for the Obligations Surviving Termination. If Buyer is not entitled to or does not elect to so terminate, the Closing shall take place as herein provided. If Buyer is taking the SCSC Property by eminent domain, this Agreement shall be construed as a settlement of an action under Indiana Code § 20-25-4-10 and Indiana Code article 32-24. Likewise, if all or any material part of the Town Property is taken by eminent domain or if a legal proceeding seeking such taking by eminent domain is filed prior to the Closing Date by a governmental entity other than Seller, then Seller may, as its sole and exclusive right and remedy, terminate this Agreement by notice to Buyer given on or before the earlier of (a) twenty (20) days after such taking commences or (b) the Closing Date, and, in the event of such termination, neither party shall have any further obligation under this Agreement, except for the Obligations Surviving Termination. If Seller is not entitled to or does not elect to so terminate, the Closing shall take place as herein provided.

## **13. OPERATIONS PRIOR TO CLOSING OR TERMINATION**

13.1. Seller's Covenants. Seller covenants and agrees with Buyer that except as otherwise provided in this Agreement or as may be necessary to consummate the transactions

contemplated herein, after the date hereof until the Closing or termination of this Agreement, Seller shall conduct its business involving the SCSC Property as follows:

(a) Seller shall refrain from transferring title to any of the SCSC Property or creating on the SCSC Property any easements or mortgages which will survive Closing.

(b) Without the prior written consent of Buyer, Seller shall refrain from entering into or amending any contracts or other agreements pertaining to the SCSC Property, other than contracts or other agreements entered into in the ordinary course of business and which are cancelable by the owner of the SCSC Property without penalty upon not more than thirty (30) days' notice.

(c) Seller shall not solicit or enter into any discussions or negotiations with any person other than Buyer regarding sale, lease or other disposition of all or any part of the SCSC Property, provided, however that the foregoing shall not restrict or limit in any manner Seller's right to take any such actions with respect to the SCSC Property.

(d) Seller shall not subject the SCSC Property to any additional encumbrances.

(e) Seller shall refrain from committing any waste or creating any public, private or attractive nuisance upon the SCSC Property.

13.2. Buyer's Covenants. Buyer covenants and agrees with Seller that except as otherwise provided in this Agreement or as may be necessary to consummate the transactions contemplated herein, after the date hereof until the Closing or termination of this Agreement, Buyer shall conduct its business involving the Town Property as follows:

(a) Buyer shall refrain from transferring title to any of the Town Property or creating on the Property any easements or mortgages which will survive Closing.

(b) Without the prior written consent of Seller, Buyer shall refrain from entering into or amending any contracts or other agreements pertaining to the Town Property, other than contracts or other agreements entered into in the ordinary course of business and which are cancelable by the owner of the Town Property without penalty upon not more than thirty (30) days' notice.

(c) Buyer shall not solicit or enter into any discussions or negotiations with any person other than Seller regarding sale, lease or other disposition of all or any part of the Town Property, provided, however that the foregoing shall not restrict or limit in any manner Buyer's right to take any such actions with respect to the Town Property.

(d) Buyer shall not subject the Town Property to any additional encumbrances.

(e) Buyer shall refrain from committing any waste or creating any public, private or attractive nuisance upon the Town Property.

## **14. DEFAULTS AND REMEDIES**

14.1. Seller Defaults. In the event that Seller, on or prior to the Closing Date, shall default in the performance of its obligations hereunder, Buyer, as its sole and exclusive remedy, may either (a) seek specific performance of Seller's obligations hereunder, provided that any suit for specific performance must be brought within thirty (30) days after Seller's default, failing which, Buyer shall be deemed to have waived its right to specific performance to the maximum extent permitted by law, or (b) terminate this Agreement, whereupon neither party shall have any further obligation to the other party hereunder. Seller shall not be liable to Buyer for any punitive, speculative or consequential damages. The provisions of this Section shall not limit Buyer's or Seller's right to pursue and recover on a claim with respect to any of the Obligations Surviving Termination. As a condition precedent to any suit for specific performance, Buyer must have tendered all of its deliveries on or before the Closing Date. Buyer hereby waives any other rights or remedies, including, without limitation, the right to seek money damages, except as expressly provided in this Section. Buyer agrees not to file a lis pendens or other similar notice against the SCSC Property at any time or for any reason, except only in connection with, and after the filing of, a suit for specific performance.

14.2. Buyer Defaults. In the event that Buyer, on or prior to the Closing Date, shall default in the performance of its obligations under this Agreement, then Seller, as its sole and exclusive remedy, may terminate this Agreement by notifying Buyer thereof, provided that this provision shall not limit Seller's or Buyer's rights to pursue and recover on a claim with respect to any of the Obligations Surviving Termination. Seller's use of the SCSC Property shall continue without interruption. Buyer shall not be liable to Seller for punitive, speculative or consequential damages. The provisions of this Section shall not limit Buyer's or Seller's right to pursue and recover on a claim with respect to any of the Obligations Surviving Termination. As a condition precedent to any suit for specific performance, Seller must have tendered all of its deliveries on or before the Closing Date. Seller hereby waives any other rights or remedies, including, without limitation, the right to seek money damages, except as expressly provided in this Section. Seller agrees not to file a lis pendens or other similar notice against the Town Property at any time or for any reason, except only in connection with, and after the filing of, a suit for specific performance.

## **15. MISCELLANEOUS**

15.1. Entire Agreement; Amendments. This Agreement, together with the exhibits attached hereto, constitute the entire agreement of the parties hereto regarding the purchase and sale of the Properties, and all prior agreements, understandings, representations and statements, oral or written, including any so-called term sheets, letters of intent and any previous resolutions approved by the SCSC before the effective date of this Agreement but not approved by the Town, are hereby merged herein and superseded hereby. This Agreement may only be amended or modified by an instrument in writing, signed by the party or parties intended to be bound thereby.

15.2. TIME OF THE ESSENCE. ALL PARTIES HERETO AGREE THAT TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE PROVISIONS OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PARTIES' RESPECTIVE OBLIGATIONS TO CLOSE ON THE CLOSING DATE.

15.3. Counterpart/Electronic Delivery. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, executed counterparts of this Agreement may be delivered by facsimile or other reliable electronic means (including emails of pdf documents), and such facsimile or other electronic transmission shall be valid and binding for all purposes when transmitted to and actually received by the other party.

15.4. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State of Indiana and for all purposes shall be governed by and interpreted in accordance with the laws of Indiana without reference to conflicts of law principles or rules.

15.5. Recordation. Buyer shall not record this Agreement or a memorandum or other notice thereof in any public office or records without the express written consent of Seller except as may be required by law in connection with the filing of a suit for specific performance permitted by this Agreement or recordation of a lease as provided under this Agreement. A breach by Buyer of this covenant shall constitute a material default by Buyer under this Agreement.

15.6. Assignment; Third-Party Beneficiaries. Neither Buyer or Seller shall assign this Agreement without the other's prior written consent, which consent may be withheld for any reason or no reason. Any assignment without prior written consent is void. Subject to the previous sentence, this Agreement shall inure to the benefit of and be binding on and enforceable against the parties hereto and their respective successors and assigns. This Agreement is intended for the benefit of Buyer and Seller, and except as provided in the indemnity granted by Buyer under Section 3.2 and Section 3.3, with respect to the Indemnified Parties described therein and Section 6(b) with respect to the Growing Minds Lease, no other person or entity shall be entitled to rely on this Agreement, receive any benefit from it or enforce any provisions of it against Buyer or Seller.

15.7. Section Headings. The Section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several Sections hereof.

15.8. Severability. If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

15.9. Waiver of Trial by Jury. Seller and Buyer, to the extent they may legally do so, hereby expressly waive any right to trial by jury of any claim, demand, action, cause of action or proceeding arising under or with respect to this Agreement, or in any way connected with, or related to, or incidental to, the dealings of the parties hereto with respect to this Agreement or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and irrespective of whether sounding in contract, tort, or otherwise. To the extent they may legally do so, Seller and Buyer hereby agree that any such claim, demand, action, cause of action or proceeding shall be decided by a court trial without a jury and that any party hereto may file an original counterpart or a copy of this Section with any court as written evidence of the consent of the other party or parties hereto to waiver of its or their right to trial by jury.

15.10. Exculpation of Related Parties. Notwithstanding anything to the contrary contained in this Agreement or in any of the documents executed pursuant to this Agreement (this Agreement and said documents being hereinafter collectively referred to as the “**Documents**”) or provided under or required by law, the Documents shall not be binding on the respective employees, advisors, representatives or other agents or affiliates of Seller or Buyer, but shall only be binding on Seller and Buyer and their respective assets, subject to the other limitations set forth herein.

15.11. Independent Counsel; Interpretation. Buyer and Seller each acknowledge that: (a) they have been represented by independent counsel in connection with this Agreement; (b) they have executed this Agreement with the advice of such counsel; and (c) this Agreement is the result of arms length negotiations between the parties hereto and the advice and assistance of their respective counsel. Notwithstanding any rule of law to the contrary: (i) the fact that this Agreement was prepared by Seller’s counsel as a matter of convenience shall have no import or significance, and any uncertainty or ambiguity in this Agreement shall not be construed against Seller because Seller’s counsel prepared this Agreement; and (ii) no deletions from prior drafts of this Agreement shall be construed to create the opposite intent of the deleted provisions.

15.12. No Waiver. No covenant, term or condition of this Agreement, other than as expressly set forth herein, shall be deemed to have been waived by Seller or Buyer unless such waiver is in writing and executed by Seller or Buyer, as the case may be.

15.13. Survival. The Obligations Surviving Termination shall survive any termination of this Agreement. Except as otherwise expressly provided herein, no conditions and no representations, warranties, covenants, agreements or other obligations of Seller in this Agreement shall survive the Closing and no action based thereon shall be commenced after the Closing.

15.14. Single Unified Transaction. Notwithstanding anything else set forth herein that might appear to be to the contrary, under no circumstances whatsoever may either Seller or Buyer compel the other to consummate the transactions described herein with respect to less than all of the Property. The parties mutually acknowledge and agree that this Agreement is not intended to have any conditions or other provisions that would permit either party to partially terminate this Agreement with respect to only part of the Property. Accordingly, either all of the Property or none of the Property must be transferred at the Closing.

15.15. No Partnership. Nothing contained herein shall be deemed or construed to constitute Buyer as a partner, joint venturer, coprincipal or associate of Seller, or of any person claiming by, through or under Seller, in the conduct of their respective businesses.



**SIGNATURE PAGE TO PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the Effective Date.

**BUYER:**

TOWN OF SELLERSBURG

By:

---

Printed: Scott McVoy  
Title: Town Council Member

---

Printed: Randall Mobley  
Title: Town Council Member

---

Printed: Brad Amos  
Title: Town Council Member

---

Printed: Terry Langford  
Title: Town Council Member

---

Printed: Matthew Czarnecki  
Title: Town Council Member

**SELLER:**

THE SILVER CREEK SCHOOL CORPORATION, an Indiana public school corporation, which is a subdivision of the State of Indiana

By:

---

Printed: Joseph C. Rountree  
Title: President, Board of School Trustees

---

Printed: Christina Franklin  
Title: Secretary, Board of School Trustees

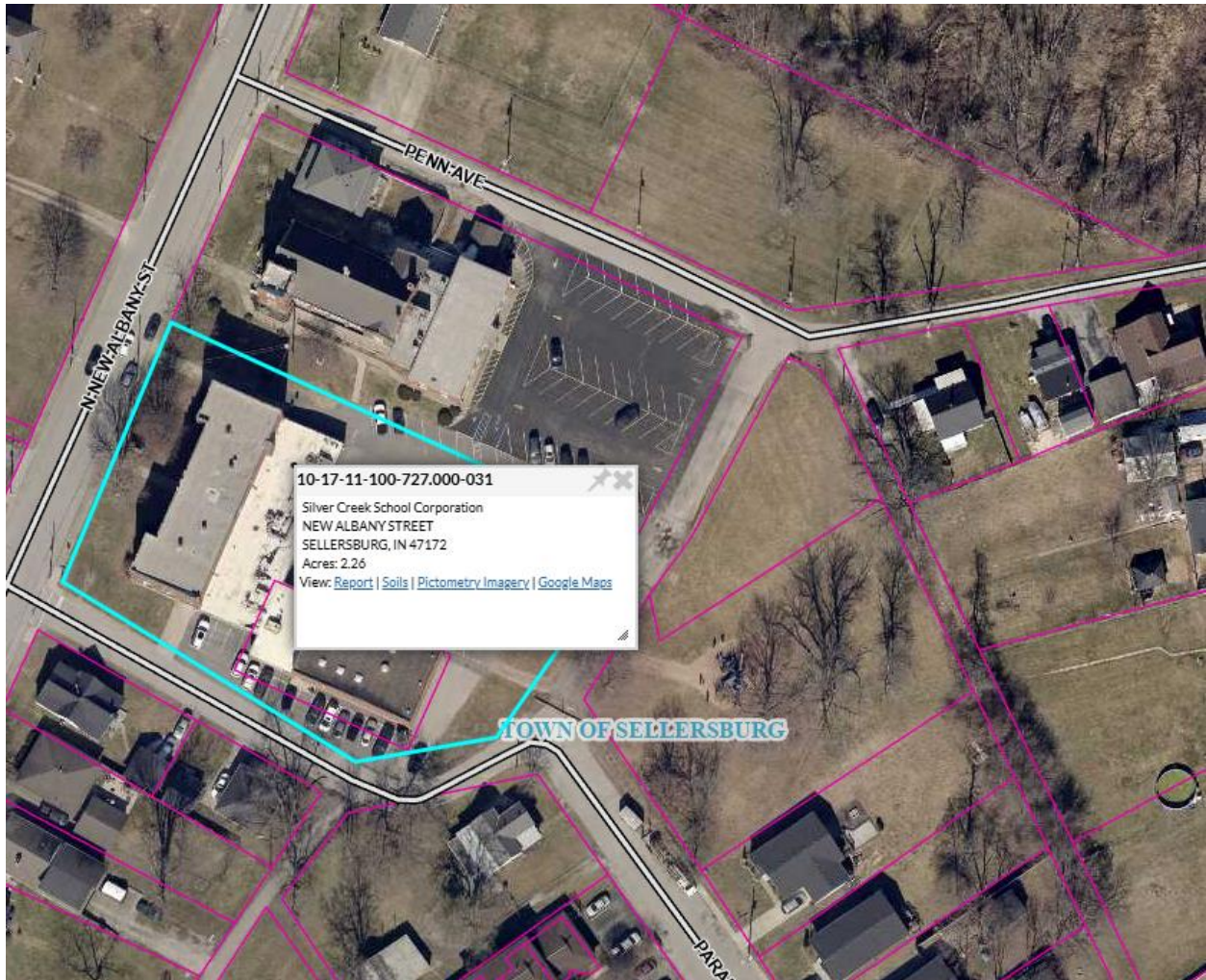
**SELLER:**

**EXHIBIT A**

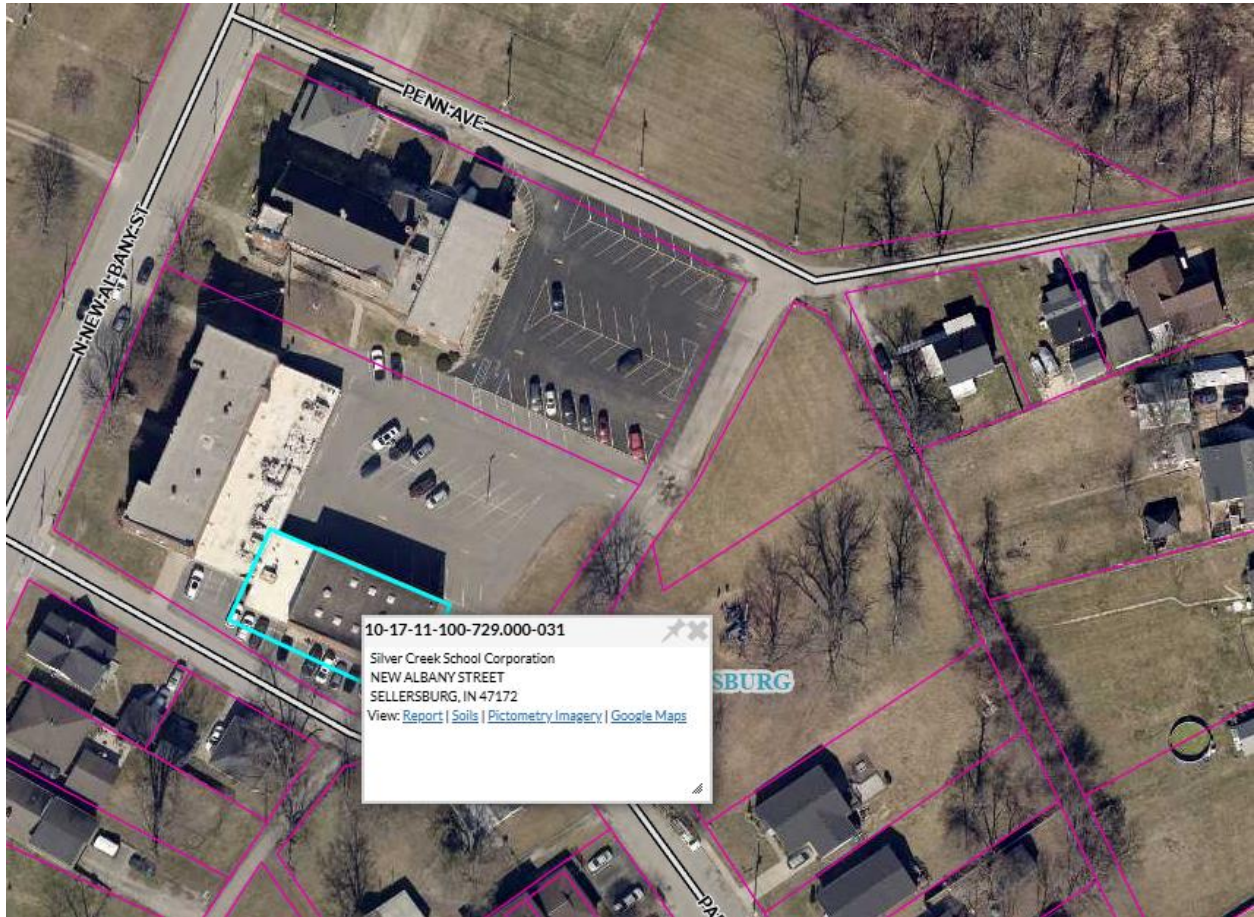
**DEPICTION OF SCSC PROPERTY (FOUR PARCELS)**

**[LEGAL DESCRIPTION TO BE ADDED]**

- 1. 10-17-11-100-727.000-031 (as outlined in blue):**



2. 10-17-11-100-729.000-031 (as outlined in blue):





3. 10-17-11-100-254.000-031 (as outlined in blue):



4. 10-17-11-100-237.000-31 (as outlined in blue):





**EXHIBIT B**

**DEPICTION OF TOWN PROPERTY**

**[LEGAL DESCRIPTION TO BE ADDED]**



**EXHIBIT C**  
**FORM OF DEED**

**LIMITED WARRANTY DEED**

THIS INDENTURE WITNESSETH that \_\_\_\_\_ (“**Grantor**”), for and in consideration of TEN AND 00/100 DOLLARS and other good and valuable consideration, hereby BARGAINS, SELLS and TRANSFERS to \_\_\_\_\_ (“**Grantee**”), the following described real estate located in \_\_\_\_\_ County, Indiana (the “**Real Estate**”):

[INSERT LEGAL DESCRIPTION]

Subject to (1) all real estate taxes and assessments due and payable after the date hereof, which Grantee by its acceptance hereof agrees to pay, (2) all easements, covenants, conditions, restrictions and other matters of record, (3) all matters that would be disclosed by an accurate survey and inspection of the Real Estate, and (4) all existing laws and other governmental requirements. Except for matters set forth above, Grantor covenants with Grantee to warrant and defend title to the Real Estate against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has executed this Limited Warranty Deed as of the date of notarization below, to be effective as of \_\_\_\_\_, 2024.

**GRANTOR:** \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF CLARK )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, by me known and by me known to be the \_\_\_\_\_ of \_\_\_\_\_, a[n] \_\_\_\_\_, who acknowledged execution of the foregoing Limited Warranty Deed for and on behalf of such \_\_\_\_\_.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My County of Residence: \_\_\_\_\_  
My Commission Number: \_\_\_\_\_

This instrument was prepared by: Jonathan L. Mayes, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, IN 46204.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law Jonathan L. Mayes, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, IN 46204.

The mailing address to which statements should be mailed under Indiana Code 6-1.1-22-8.1 is 316 E Utica St., Sellersburg, IN 47172. The mailing address of the grantee is 316 E Utica St., Sellersburg, IN 47172.



## EXHIBIT D

### ASSIGNMENT OF GROWING MINDS LEASE

THIS ASSIGNMENT OF LEASE (as the same may be amended or modified, this “**Assignment**”), is executed to be effective as of \_\_\_\_\_, 2024 by and between (a) Growing Minds Preschool, LLC, an Indiana limited liability company, whose mailing address is 206 North New Albany St, Sellersburg, Indiana 47172 (hereinafter referred to as “**Lessee**”), (b) Silver Creek School Corporation, whose mailing address is 601 Renz Avenue, Indiana 47172 (hereinafter referred to as “**Assignor**”), and (c) the Town of Sellersburg, Indiana, an Indiana political subdivision (hereinafter referred to as “**Town**”).

#### RECITALS:

A. Assignor and Lessee entered into a Lease Agreement dated May 24, 2022, as amended (the “**Lease**”), with respect to a building located at 206 North New Albany St, Sellersburg, Indiana 47172.

B. Assignor is transferring title to the real property located at 206 North New Albany St, Sellersburg, Indiana 47172 (“**Premises**”) to the Town pursuant to a Purchase Agreement.

C. Pursuant to the Purchase Agreement, the Town agrees to accept assignment of the Lease with Lessee.

NOW THEREFORE, in consideration of the foregoing, Assignor, Lessee and Town hereby agrees as follows:

1. **ASSIGNMENT.** Assignor hereby grants, transfers and assigns to Town all of the right, title, interest, duties and obligations, whether now owned or hereafter acquired, of Assignor in and to all of the following:

1.1. All leases, subleases and agreements for the leasing, use or occupancy of the Premises now or hereafter entered into whether oral or written, and all amendments, renewals and extensions thereof (all such leases and agreements being hereinafter collectively referred to as the “**Leases**” and individually as a “**Lease**”);

1.2. All guarantees of the obligations of any tenant under a Lease;

1.3. The immediate and continuing right to collect and receive all rents, income, issues, payments, security deposits and profits arising out of, payable from or collected from any Lease or out of the Premises or any part thereof, including without limitation all monies owed under any Lease for services, materials, leasehold improvements or otherwise furnished or installed pursuant to any Lease and further including without limitation all rents, income, payments and profits arising from the operation of any business and all fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities on the Premises (funds obtained as such rents, income, profits, fees, charges, accounts or other payments and held in any reserve, account or credit balance shall retain the character of such rents, income, profits, fees, charges, accounts or other payments) (such rents, income, payments, profits, fees, charges and accounts are collectively

hereinafter referred to as the “**Rents**”) as provided in the Purchase Agreement between the Assignor and Town;

1.4. The right to proceeds payable to Assignor pursuant to any purchase option or right of first refusal on the part of any tenant under any Lease;

1.5. The right to proceeds payable to Assignor pursuant to any right of early termination or cancellation of any Lease;

1.6. All other payments derived from any Lease including but not limited to claims for the recovery of damages done to the Premises or for the abatement of any nuisance existing thereon, claims for damages resulting from default under said Leases whether resulting from acts of insolvency or acts of bankruptcy or otherwise, all payments made or pursuant to the termination of any Leases or a settlement of the obligations of any tenant under any Lease, and all payments for the waiver of any obligation under any Lease;

1.7. All rights in and to any proceeds of insurance payable to Assignor and damages or awards resulting from an authority exercising the rights of eminent domain with respect to the Premises;

1.8. Any award or damages payable to Assignor pursuant to any bankruptcy, liquidation, dissolution, insolvency, or similar proceeding affecting any tenant under any Lease;

1.9. Any payments made to Assignor in lieu of rent;

1.10. All security deposits paid by any tenant under a Lease;

1.11. All letters of credit issued, and all other collateral granted, as security for the obligations of any tenant arising under or in connection with a Lease;

1.12. All rights and remedies of Assignor to take any action or enforce any remedy with respect to the Leases; and

1.13. All rights of Assignor to amend, modify, terminate or in any way alter the Leases.

2. **CONSENT.** Lessee represents it has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Lessee consents to the assignment of the Lease, as amended, from Assignor to the Town. Lessee, Assignor and Town acknowledge and agree that all other provisions of the Lease, as amended, not expressly modified hereby shall remain in full force and effect according to their terms. The Town and Lessee expressly incorporate by reference and restate the terms of the Lease, as amended, herein, unless explicitly modified by this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

**[SIGNATURE PAGE IMMEDIATELY FOLLOWING]**

**SIGNATURE PAGE TO ASSIGNMENT OF GROWING MINDS LEASE**

**Lessee:**  
GROWING MINDS PRESCHOOL, LLC,  
an Indiana limited liability company

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

**Assignor:**  
SILVER CREEK SCHOOL CORPORATION, an  
Indiana public school corporation, which is a  
subdivision of the State of Indiana

By: \_\_\_\_\_

Printed: Joseph C. Rountree  
Title: President, Board of School Trustees

Printed: Christina Franklin  
Title: Secretary, Board of School Trustees

**Town:**  
TOWN OF SELLERSBURG, INDIANA, an Indiana  
town, which is a subdivision of the State of  
Indiana

By: \_\_\_\_\_

Printed: Scott McVoy  
Title: Town Council Member

Printed: Randall Mobley  
Title: Town Council Member

Printed: Brad Amos  
Title: Town Council Member

Printed: Terry Langford  
Title: Town Council Member

Printed: Matthew Czarnecki  
Title: Town Council Member

STATE OF INDIANA  
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

**RESOLUTION NO. 2024 – R – 006**

**A RESOLUTION TRANSFERRING PROPERTY WITH THE TOWN OF SELLERSBURG PARKS AND RECREATION BOARD.**

**WHEREAS**, this Town Council of Sellersburg, Indiana (the “Town”) is the town legislative body of the town and the President of the town council is the town executive pursuant to Ind. Code § 36-5-2 *et seq.*; and,

**WHEREAS**, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, pursuant to Ind. Code § 5-22-22-10, a purchasing agency may exchange property with another governmental body upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity. In addition, a transfer under this section may be made for any amount of property or cash as agreed upon by the governmental bodies; and,

**WHEREAS**, Ind. Code § 36-1-11 *et seq.* authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities, as evidenced by the adoption of a substantially identical resolution by the governing body of each entity; and,

**WHEREAS**, the Town of Sellersburg Parks and Recreation Board (the “Parks Board”) is the owner of approximately 4.6 acres of real property located at Oak Street, Sellersburg, Indiana 47172 identified by Parcel No. 10-17-11-100-741.000-031 (the “Park Property”) (*See Attached Exhibit A*) and is not used by the Parks Board; and,

**WHEREAS**, the Town and the Parks Board have agreed to transfer the Park Property for One Dollar (\$1.00) the receipt and sufficiency of which is hereby acknowledge so that the Town

can transfer said Park Property with the Silver Creek School Corporation to comply with Resolution 2024 – R – 005.

**NOW THEREFORE, BE IT RESOLVED**, by Town Council of Sellersburg, Indiana (the “Town”) as follows:

**SECTION 1.** The foregoing Recitals are incorporated herein by this reference.

**SECTION 2.** Pursuant to the provisions of Ind. Code § 36-1-11 *et seq.*, the Town hereby approves the transfer of the Park Property in accordance with the terms set forth in this Resolution.

**SECTION 3.** The transfer of the Park Property to the Town shall be by Limited Warranty Deed.

**SECTION 4.** The Town hereby authorizes, empowers, and directs the Town Manager and/or President of the Town Council to execute all documents as may be necessary to effectuate this transaction provided said actions to not material change the intent of this resolution.

**SECTION 5.** This Resolution is effective immediately upon its passage.

**THIS RESOLUTION** adopted this \_\_\_\_\_ day of December 2024 by at least a majority vote of this Council in a public meeting.

This Resolution shall be in full force and effect after its adoption by the Town Council of Sellersburg, Indiana.

*[Signature page to follow]*

“Aye”

“Nay”

---

Brad Amos  
Council President

---

Brad Amos  
Council President

---

Terry Langford  
Council Vice President

---

Terry Langford  
Council Vice President

---

Scott McVoy  
Council 2<sup>nd</sup> Vice President

---

Scott McVoy  
Council 2<sup>nd</sup> Vice President

---

Matthew Czarnecki  
Council Member

---

Matthew Czarnecki  
Council Member

---

Randall Mobley  
Council Member

---

Randall Mobley  
Council Member

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Attested by: Michelle Miller  
Sellersburg Clerk-Treasurer



TOWN OF SELLERSBURG

ft

LISA AVE

302018.94, 1149743.2

OAK ST

BERKMAN