

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 6 - 2009

**AN ORDINANCE APPROVING A PETITION FOR THE
INCORPORATION OF THE TOWN OF COVERED BRIDGE**

WHEREAS, this Board of Commissioners of Clark County, Indiana (this "Board"), is the county executive body pursuant to the provisions of IC 36-2-2-2, and also the county legislative body pursuant to the provisions of IC 36-1-2-9(1); and,

WHEREAS, IC 36-5-1, *et seq.*, provides a procedure for the incorporation of proposed new towns in a county; and,

WHEREAS, on September 17, 2009, this Board adopted Resolution No. 12-2009 recognizing the filing of a petition for the proposed incorporation of the Town of Covered Bridge; and,

WHEREAS, on December 9, 2009, this Board conducted a public hearing on the petition for the incorporation of the Town of Covered Bridge following notice required by applicable law; and,

WHEREAS, this Board heard the comments of all interested persons at the public hearing, and closed such hearing on December 9, 2009; and,

WHEREAS, this Board now finds that this Ordinance approving the petition for the incorporation of the Town of Covered Bridge should be adopted on the terms and conditions set forth herein.

NOW, THEREFORE, BE IT ORDAINED by this Board of Clark County Commissioners that:

1. Adoption of findings required by IC 36-5-1-8. Based on the petition and the information received at public hearing, this Board now finds all of the following:

a. *Future Use of Town.* The proposed Town of Covered Bridge will in the reasonably foreseeable future be used generally for commercial, industrial, residential, or similar purposes.

b. *Compactness and Contiguity.* The proposed Town of Covered Bridge is reasonably compact and contiguous.

c. *Land for Future Growth.* The proposed Town of Covered Bridge includes enough territory to allow for reasonable growth in the foreseeable future.

d. *Provision of Services by Town.* A substantial majority of the property owners in the proposed Town of Covered Bridge have agreed that at least six (6) of the following municipal services should be provided on an adequate basis: (i) police protection, (ii) fire protection, (iii) street construction, maintenance, and lighting, (iv) parks and recreation, (v) planning, zoning, and subdivision control, and (vi) water conservation.

e. *Ability of Town to Finance Services.* The proposed Town of Covered Bridge could finance the proposed municipal services with a reasonable tax rate, using the current assessed valuation of properties as a basis for calculation.

f. *Best Interest of Subject Territory.* The incorporation of the proposed Town of Covered Bridge is in the best interest of the territory involved, which finding is made after consideration by this Board of the (i) expected growth and governmental needs of the area surrounding the proposed Town of Covered Bridge, (ii) extent to which another unit can more adequately and economically provide essential services and functions, and (iii) extent to which

the incorporators are willing to enter into agreements under IC 36-1-7 with the largest neighboring municipality (i.e., the Town of Sellersburg), if that municipality has proposed such agreements.

2. Incorporation of the Town of Covered Bridge pursuant to IC 36-5-1-10.1.

Having affirmatively made the findings required by applicable statutes in Section 1 above, this Board now adopts this Ordinance approving the incorporation of the Town of Covered Bridge, subject to the following terms and conditions:

a. *Provisions for Town Elections.* All members of the legislative body of the Town of Covered Bridge shall be elected at large, as the Town of Covered Bridge is reasonably expected to have a population of less than three thousand five hundred (3,500) as of the date of its incorporation. The Clark County Election Board is directed to conduct an election in the Town of Covered Bridge on the date of the next general or municipal election to be held in any precincts in Clark County. An election conducted under this section must comply with IC 3 concerning town elections. If, on the date of the adoption of this Ordinance, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the Town of Covered Bridge, the election must be conducted on the date of the next general or municipal election held in any precincts in Clark County after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the Town of Covered Bridge.

b. *Assumption of Township Debt.* Pursuant to the provisions of IC 36-5-1-11, if the township in which the Town of Covered Bridge is indebted or has outstanding unpaid bonds or other obligations at the time of the incorporation, the Town of Covered Bridge shall be liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the

property in the Town bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the incorporation, unless the assessed property within the Town is already liable for the indebtedness. The Town of Covered Bridge shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the township executive shall be made as the principal or interest on the bonds or notes becomes due.

c. *Effective Date of Ordinance.* This Ordinance shall be effective on the later of the following dates: (i) when filed with both the office of the Indiana Secretary of State and the Clerk of the Clark Circuit Court, or (ii) January 2, 2010. Notwithstanding the provisions of the foregoing sentence, the continued effectiveness of this Ordinance, and hence of the incorporation of the Town of Covered Bridge enacted hereby, shall be conditioned upon the execution of the Interlocal Agreement attached hereto and incorporated herein as Exhibit "A" by the initially elected members of the Town Council of the Town of Covered Bridge within thirty (30) days after the date that they are first sworn into office.

[The remainder of this page intentionally left blank. Signature page follows.]

So Ordained this 22nd day of December, 2009.

Members voting "NO":

M. Edward Meyer, Commissioner

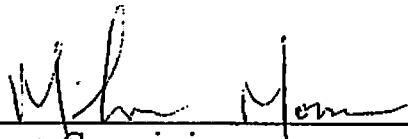
Mike Moore, Commissioner

Les Young, Commissioner

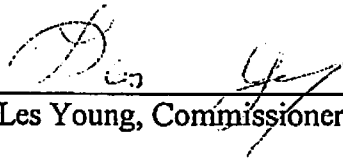
Members voting "YES":



M. Edward Meyer, Commissioner



Mike Moore, Commissioner



Les Young, Commissioner

Attested by:



Keith Groth, Auditor of Clark County

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") is made by and between the proposed **TOWN OF COVERED BRIDGE, INDIANA** ("Covered Bridge") by and through its Board of Town Trustees, and **CLARK COUNTY, INDIANA** ("County") and **CLARK COUNTY PLANNING, ZONING, AND BUILDING COMMISSION** ("Plan Commission").

I. PURPOSES OF AGREEMENT.

- A. To authorize the Board of Commissioners of Clark County, Indiana to provide the personnel of the Clark County Highway Department, or by contract, for the maintenance of public streets and highways within the town limits of Covered Bridge, Indiana. The parties believe, as Clark County, Indiana receives bids on a regular basis for the provision of bituminous materials and road repair and maintenance equipment, that it is in an advantageous position to provide for the cost of street repair and maintenance at a more competitive price than Covered Bridge could if it acted on its own. The parties also believe that it is not presently feasible for the town to maintain its own engineer, supervisor, and employees to provide street maintenance services.
- B. To set out the terms and conditions for the provision of law enforcement services by the Clark County Sheriff's Department to the Town of Covered Bridge, Indiana.
- C. To authorize the continuation of the provision of planning, zoning, subdivision control, and building services by the Plan Commission to Covered Bridge.

II. AUTHORITY FOR AGREEMENT.

- A. This Agreement, as it pertains to construction and maintenance of public streets and highways, is made under the authority of the Interlocal Cooperation Act codified as IC, 36-1-7-9 and 10.
- B. This Agreement, as it pertains to the terms and conditions for the provision of law enforcement services, is made under the authority of:
 - 1. IC, 36-1-7 allows units of government to enter into Interlocal Agreements or the purposes of the provision of the joint exercise of municipal powers;
 - 2. IC, 36-1-7-7 allows the provision of law enforcement services by one governmental unit for the benefit of another; and
 - 3. Covered Bridge has initiated proceedings before the Board of Commissioners of Clark County, Indiana, seeking to establish the Town of

Covered Bridge, Indiana, pursuant to the provisions of IC, 36-5-1 as authority.

- C. This Agreement, as it pertains to provision of planning, zoning, subdivision control, and building services, is made under the authority of:
1. The Plan Commission is authorized by IC, 36-7-8-8 to enter into a contract with Covered Bridge to administer and enforce minimum building standards through adoption of ordinances, issuance of permits, and conducting of inspections;
 2. IC, 36-7-8-4(c) provides that Covered Bridge may elect, by ordinance, to make itself subject to Clark County ordinances establishing minimum building standards; and
 3. IC, 36-1-7-2 provides that a power that may be exercised by an Indiana political subdivision may be exercised by one or more entities on behalf of others. These powers include the provision of planning, zoning, and subdivision control services.

III. ADMINISTRATION OF AGREEMENT.

A. MANAGEMENT.

1. No joint board, separate board, or department shall be established under this Agreement in regard to the provision of construction and maintenance of public streets and highways. Street maintenance and repair shall be performed upon the direction of the Clark County Board of Commissioners upon written request by the Board of Town Trustees of Covered Bridge.
2. No joint board, separate board, or department shall be created by this Agreement for the purpose of providing law enforcement services to Covered Bridge. The current officers and personnel of the Clark County Sheriff's Department shall provide law enforcement services that can be exercised by a town marshal pursuant to the provisions of IC, 36-5-7-4, including the following:
 - a. Service of all process directed to them by any town court or legislative body of Covered Bridge, Indiana;
 - b. The Clark County Sheriff's Department shall perform motor vehicle patrols within the town limits of Covered Bridge, Indiana consistent with what it is presently providing, in addition to the general law enforcement services otherwise set out in this Paragraph III(A);

- c. Arrest without process all persons who commit an offense within their view within the Town of Covered Bridge, Indiana, take them before a court having jurisdiction, and retain them in custody until the cause of their arrest has been investigated;
 - d. The suppression of breaches of peace within the Town of Covered Bridge, Indiana;
 - e. May if necessary call the power of the Town of Covered Bridge, Indiana to their aid;
 - f. The execution of search warrants and arrest warrants within the Town of Covered Bridge, Indiana; and
 - g. The pursuit and jailing of persons who commit an offense within the Town of Covered Bridge, Indiana.
3. No joint board, separate board, or department shall be created by this Agreement for the continued provision of services by the Plan Commission to Covered Bridge. Covered Bridge shall remain subject to any and all Clark County zoning ordinances, subdivision control ordinance, and building standards ordinances. The Plan Commission shall continue to issue all appropriate zoning permits, occupancy permits, building permits, and subdivision control and review under these ordinances for the benefit of the area within Covered Bridge.
4. The parties to this Agreement hereby agree to mutually indemnify, defend, and hold each other harmless from any and all claims, demands, damages, costs and expenses, including reasonable attorney fees for the defense of such claims and demands, arising from the performance of the agreements contained herein except in those instances when any such claim, damages, or cause of action arises out of the tortious or intentional acts of the employees or independent contractors of an individual party to this Agreement. Covered Bridge shall acquire liability insurance policies in an amount not less than the claims limits established by the Indiana Tort Claims Act (IC 34-13-3-4). Each of the parties to this Agreement shall name the other as an additional insured on its liability insurance policies, and shall exchange appropriate Certificates of Insurance indicating the types of coverage and amounts of coverage limits that may be pertinent to the respective indemnification obligation of the parties.
5. The parties agree that in the provision of these services to Covered Bridge, the Clark County entities shall be obligated to provide a standard of service equivalent to those services it provides to other unincorporated communities located within Clark County, Indiana.

B. FINANCING.

1. Construction and Maintenance of Public Streets and Highways. The distributions that Covered Bridge shall be entitled to receive from the MVH Fund under IC, 8-14-1, the Local Road and Street account under IC, 8-14-2, the Wheel Tax under IC 6-3.5-5-2, or the License Excise Surtax under IC 6-3.5-4-2, and any other revenue source that the County typically utilizes to fund the operation of its County Highway Department, shall be paid directly to County rather than to Covered Bridge as consideration for this agreement. The Treasurer of Clark County, Indiana will receive, disburse, and account for all funds transferred by Covered Bridge to the County under the terms of this Agreement. In the event that any such funds are disbursed to Covered Bridge notwithstanding the provisions of this Agreement, Covered Bridge shall promptly remit the entirety of such amounts to the County.

2. Provision of Law Enforcement Services.
 - a. The Clark County Sheriff's Department shall remain responsible for the conduct of their personnel, for their medical expenses, and for workers' compensation insurance coverage for any injury sustained while providing law enforcement services to the Town of Covered Bridge, Indiana.

 - b. The residents of Covered Bridge shall pay for general and continuing services of the Clark County Sheriff's Department through the countywide tax established for the Sheriff's Department by the County Council of Clark County, Indiana and the Indiana Department of Local Government Finance. The Treasurer of Clark County, Indiana shall continue to receive, disburse, and account for all monies associated with the implementation of this Agreement.

3. Provision of Planning, Zoning, Subdivision Control, and Building Services.
 - a. The residents of Covered Bridge shall pay for general services of the Plan Commission through the countywide tax rate established by the County Council of Clark County, Indiana. The disbursing officer of the Plan Commission shall continue to receive, disburse, and account for all monies collected and used in the implementation of this Agreement.

- b. The Plan Commission shall receive all scheduled fees collected for the issuance of building permits, occupancy permits, subdivision plat review, inspections, and other scheduled charges arising from providing this service within and for Covered Bridge.
4. CAGIT/EDIT Distribution. As additional consideration for this Agreement, Covered Bridge agrees that it will appropriate and pay to the County a sum equal to its certified shares and any supplemental distribution received from the Clark County Adjusted Gross Income Tax (CAGIT) and from the Clark County Economic Development Income Tax (EDIT), or any income tax subsequently amending or replacing such taxes. These funds shall be allocated for purposes of this Agreement as follows:
- a. Sixty percent (60%) of the CAGIT/EDIT distribution so appropriated shall be deemed as miscellaneous revenue for the benefit of the Clark County Highway Department budget to provide the services described in Section I(A) above.
 - b. Thirty percent (30%) of the CAGIT/EDIT distribution so appropriated shall be deemed as miscellaneous revenue for the benefit of the Clark County Sheriff's Department budget to provide the services described in Section I(B) above.
 - c. Ten percent (10%) of the CAGIT/EDIT distribution so appropriated shall be deemed as miscellaneous revenue for benefit of the Clark County Plan Commission budget to provide for the services described in Section I(C) above.

In the event that this Agreement is terminated in part, but not in whole, as provided in Section VIII below, Covered Bridge shall be entitled to prospectively retain its income tax distributions in the percentage(s) set forth above in order to be able to defray the expense of directly providing for the terminated service(s).

IV. ADDITIONAL CONSIDERATION.

As additional consideration for the agreements entered into under the terms of this Interlocal Agreement, Covered Bridge hereby agrees that during the term that this Agreement remains in effect, either in whole or in part, it will not initiate or pursue any involuntary annexations of contiguous territory pursuant to IC 36-4-3-3 or IC 36-4-3-4 to its town limits as delineated in the Ordinance adopted by the Board of Commissioners of Clark County, Indiana pursuant to the provisions of IC, 36-5-1-10.1.

V. MANNER OF ACQUIRING HOLDING AND DISPOSING OF PROPERTY.

The Board of Commissioners of Clark County, Indiana, the Clark County Highway Department, the Clark County Sheriff's Department, and the Plan Commission shall

continue to own all real estate and tangible personal property, including all motor vehicles, equipment, and implements that they presently use in their operations which may be utilized in their performance of these agreements.

VI. EFFECTIVE DATE AND DURATION OF AGREEMENT.

- A. This Agreement shall take effect as of the date that the Board of Commissioners of Clark County, Indiana adopts an ordinance pursuant to the provisions IC, 36-5-1-10.1, which officially incorporates Covered Bridge, Indiana as a town.
- B. This Agreement shall be in effect for a period of four (4) years unless terminated under the provisions of Section VIII of this Agreement. The agreements contained herein shall renew and be extended for an additional four (4) year term unless a party gives notice of termination under the provisions of Section VIII of this Agreement. The termination of this Agreement, as to any of its component parts, shall not be construed as a termination of any other component part to this Agreement.

VII. AMENDMENTS.

This Agreement may be modified or amended by written agreement among the parties hereto. Terms specific to the timing and frequency of road resurfacing in Covered Bridge will be negotiated as part of this agreement.

VIII. TERMINATION OF AGREEMENT.

This Agreement may be terminated, in whole or in part for each of the services provided pursuant hereto, upon written notice by either party. Written notice must be approved by official action of the party terminating the Agreement and must be issued in writing to the other party at least one hundred twenty (120) days before its effective date.

IX. JOINDER.

The Plan Commission is executing this Agreement solely for the purpose of implementing those provisions of this Agreement which pertain to its continued provision of planning, zoning, subdivision control, and building services to Covered Bridge.

X. LEGISLATIVE APPROVAL.

Pursuant to the provisions IC, 36-1-7-10, this Agreement shall be specifically approved and authorized by both the Clark County Council and the Board of Town Trustees of Covered Bridge.

XI. RECORDING.

Pursuant to the provisions IC, 36-1-7-10, this Agreement, upon its approval and execution, shall be recorded with the Recorder of Clark County, Indiana; filed with the Board of Commissioners of Clark County, Indiana; filed with the Auditor of Clark County, Indiana; and filed with the Auditor of the State of Indiana.

[The balance of this page is intentionally left blank. Signature pages follow.]

Dated: _____

TOWN OF COVERED BRIDGE, INDIANA
Board of Town Trustees

ATTEST:

Clerk-Treasurer

Dated: 12/22/2009

CLARK COUNTY, INDIANA
Board of Commissioners

M. Donald Myers

M. H. How

Donny

ATTEST:

Kurt Holt
Auditor of Clark County, Indiana

Dated: _____

CLARK COUNTY PLANNING, ZONING, AND
BUILDING COMMISSION

President

Secretary

ATTEST:

Executive Director

Dated: _____

CLARK COUNTY COUNCIL

President

Secretary

ATTEST:

Auditor of Clark County, Indiana

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