

ORDINANCE NO. 2024-08

**AN ORDINANCE REQUIRING LANGUAGE AND
PROCESS FOR APPROVAL OF CERTAIN COUNTY CONTRACTS.**

WHEREAS, pursuant to Indiana Code (“IC”) 36-2-2.8 et seq., et seq, effective July 1, 2024, a county may require that a contract for the purchase of real property, tangible or intangible personal property, or services (as defined by IC 5-22-2-30) contain certain provisions;

WHEREAS, pursuant to IC 36-2-2.9 et seq., effective July 1, 2024, a county officer seeking approval for a contract necessary for the county officer to carry out a constitutional or statutory duty of the office, AND for which funds have been appropriate by County Council to pay for the contract, must follow the statutory procedures set forth in that article;

WHEREAS, the Board of Commissioners of the County of Wells (“Commissioners”) is the County Executive for the County of Wells; *and*

WHEREAS, in accordance with IC 36-2-2.8-5, the Commissioners desire to establish by ordinance that certain provisions be contained in all contracts related to the County and that all offices of the County shall follow the statutory procedures for approval.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WELLS, INDIANA, THAT:

SECTION I – NAME

The name of this ordinance is the “County Contract Ordinance.”

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – COMPOSITION

- A. Definition. Whenever the following terms are used in this ordinance, they shall have the meanings herein ascribed to them unless the context clearly indicates or requires otherwise.
1. “Commissioners” refers to the Board of Commissioners of the County of Wells.
 2. “Council” refers to the Wells County Council.
 3. “County Officer” has the meaning set forth in IC 36-2-2.9-3.

4. "Contracting Official" shall mean any employee or department head with the authority delegated by the Commissioners to negotiate a contract for the purchase of real property, tangible or intangible personal property, or services or to otherwise carry out the duties of a county office.
5. "County Contract" shall mean a contract for the purchase of real property, tangible or intangible personal property, or services (as defined by IC 5-22-2-30) and/or any contract necessary for the county officer to carry out a constitutional or statutory duty of the office, AND for which funds have been appropriate by County Council to pay for the contract.

B. Contract Terms. Any County Contract shall contain provisions, as set forth in the policies and procedures of Wells County, as follows:

1. Any County Contract shall be in the name of "Wells County";
2. Any County Contract for purchases of public use shall have the real or personal property titled to or documents as being owned by "Wells County";
3. Any County Contract shall contain the following provisions beneficial to Wells County:
 - a. The other party to the County Contract will indemnify Wells County;
 - b. The other party must first submit any claim to mediation prior to filing a lawsuit for enforcement or breach;
 - c. That the venue for any lawsuit regarding the County Contract must be filed in a court located in Wells County, Indiana;
 - d. A specific term and termination provisions requiring prior notice;
 - e. Notice of any default, breach or modification must be provided to the County Officer, Contracting Official with a copy to the County Attorney; and
 - f. Any other provision required by statute or regulation.
4. The County Attorney shall provide a form of the provisions as set forth in section (3), which shall be revised from time to time.

C. Procedures for Approval.

1. The Commissioners shall be the sole party to approve a County Contract, unless and until this Ordinance is amended by the Commissioners and a proper and qualified delegate is identified to approve a County Contract under IC 36-2-2.8-6.

2. A County Officer or Contracting Official shall submit a proposed County Contract to the County Auditor, by:
 - a. Submitting a request for review, which shall be maintained by the County Auditor, as subject to revision from time to time by the County Auditor, but which shall identify that the County Officer or Contracting Official has complied with all statutory and Wells County policies on procurement and purchasing, as applicable; and
 - b. Submitting a copy of the proposed County Contract.

SECTION IV – REPEAL OF PRIOR LAW

- A. Repeal. All other provisions of ordinances and resolutions previously adopted are hereby repealed to the extent they are inconsistent with or in conflict with this ordinance but only to such extent.
- B. Ratification. All previous appointments to the Board prior to the adoption of this ordinance are hereby ratified, confirmed, and approved in their entirety to the extent the actions otherwise conform to this ordinance.
- C. Restatement. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, the provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
- D. Continuance. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- E. Rulemaking. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically provided otherwise.
- F. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

SECTION V – MISCELLANEOUS

- A. References.
 1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public

- servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) Wells County (Indiana).”
 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. **Judicial Review.** This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may be applicable to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the County or such related parties are provided by law.
- C. **Conflicts.** No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize the same.
- D. **Severability.** Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, nor any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- E. **Promulgation.** The Auditor is hereby authorized, empowered, and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- F. **Codification.** To the extent a substantive change in meaning does not result, the codifier of ordinances may omit the Name, Recitals, Miscellaneous, Repeals, and Adoption sections of this ordinance from the official code, may renumber, reorder, or reorganize any section of this ordinance, and may alter references to and within this ordinance as appropriate.
- G. **Retroactive Effective Date.** This ordinance shall take effect immediately upon adoption but shall be deemed effective as of, July 1, 2024.

SECTION VI – ADOPTION

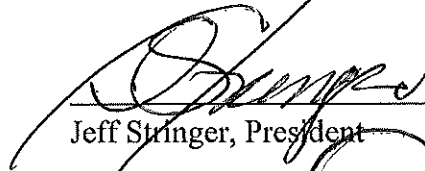
Ayes: 3

Nays: 0

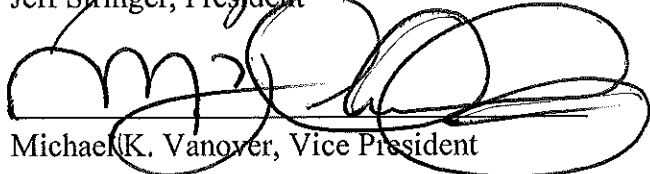
Abstentions: 0

Adopted and ordained this 3rd day of June 2024.

**THE BOARD OF COMMISSIONERS OF
THE COUNTY OF WELLS, INDIANA**




Jeff Stringer, President



Michael K. Vanover, Vice President



Blake Gerber, Member

ATTEST:


Lisa McCormick, Auditor

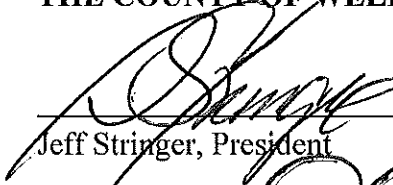
I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.
Lisa McCormick

Prepared by: *Ted Storev*

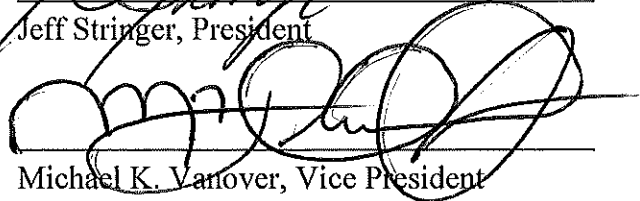
WAIVER OF SECOND READING

On motion duly made and seconded, the second reading of the foregoing ordinance was unanimously waived, and the ordinance shall be deemed effective as provided therein.


**THE BOARD OF COMMISSIONERS OF
THE COUNTY OF WELLS, INDIANA**



Jeff Stringer, President




Michael K. Vanover, Vice President



Blake Gerber, Member

ATTEST:



Lisa McCormick, Auditor