

ORDINANCE NO. 2001-7

**ORDINANCE CREATING A SPECIAL STREET, CURB AND STREET
INLET FUND TO BE KNOWN AS THE NATCHER BRIDGE STREET FUND**

WHEREAS, the State of Indiana through the Indiana Department of Transportation (INDOT) has agreed to transfer that portion of the Indiana State Highway 45 (SR 45) that lies within the corporate boundaries of the City of Rockport to the City of Rockport (Rockport);

WHEREAS, Rockport has agreed to accept said SR 45 into its street system upon certain conditions, including the payment by INDOT to Rockport of the sum of \$513,600.00 and the additional sum of \$11,883.24;

WHEREAS, Rockport and INDOT have entered into a written Road Transfer Memorandum of Agreement setting forth the purpose of the transfer, the effective date of the transfer, and the conditions agreed to by the parties, which Road Transfer Memorandum of Agreement is attached hereto and made a part hereof as Exhibit "A".

WHEREAS, it is in the best interest of the City of Rockport to create a special fund into which to deposit the \$513,600.00 and the \$11,883.24 and to set forth the purposes for which the monies deposited in the special fund may be used and the manner of appropriating money out of the special fund;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF ROCKPORT, INDIANA AS FOLLOWS:**

1. There is hereby established a special fund to be known as the "Natcher Bridge Street Fund".

2. That the \$513,600.00 and the \$11,883.24 to be received by the City of Rockport pursuant to the Road Transfer Memorandum of Agreement attached hereto as Exhibit "A" shall be deposited in said fund.

3. That said fund shall continue from year to year.

4. That monies in the fund shall be used only for street improvement, curb improvement, curb inlet improvement, snow removal, ⁺equipment and sidewalks

5. That interest on the fund shall be a part of the fund.

6. That monies may be appropriated from this fund only in the following manner:

(a) The Board of Public Works and Safety shall at least one time annually by majority vote recommend to the Common Council the project or projects for which it desires to expend money from the fund.

(b) The Common Council may by majority vote accept or reject the recommendation of the Board of Public Works and Safety for the expenditure of money from the fund.

(c) In the event that the Common Council by the majority vote approves the recommendation of the Board of Public Works and Safety, the Board of Public Works and Safety may proceed with expenditure of the approved funds in the manner provided by law.

PASSED AND ADOPTED by the Common Council of the City of Rockport, Indiana on this ____ day of _____, 2001.

COMMON COUNCIL OF THE CITY
OF ROCKPORT, INDIANA

BY: *Joe [Signature]* Councilman
Virgil [Signature] Councilman
Jerald B. Payne Councilman
Darin Kolmiz Councilman
Robert Lee [Signature] Councilman

ATTEST:

Beal Parker
Clerk-Treasurer

APPROVED:

Mayor, City of Rockport on _____,
2001 at _____ .M.

EXHIBIT "A"

Road Transfer Memorandum of Agreement

This Agreement is made and entered into on _____, 200____, by and between the State of Indiana and through the Indiana Department of Transportation (hereinafter referred to as INDOT), and Spencer County, acting by and through its County Commissioners (hereinafter referred to as the COUNTY), and the City of Rockport, acting by and through its authorized officials (hereinafter referred to as the CITY).

WITNESSETH:

WHEREAS, the Commonwealth of Kentucky is currently constructing the William H. Natcher Bridge over the Ohio River north and east of the CITY with an anticipated completion date of 2033;

WHEREAS, with the opening of said bridge, existing state traffic patterns on existing US 231 both north and south of the bridge will be appreciably altered;

WHEREAS, with these changes, INDOT has determined, and the CITY and COUNTY agree, pursuant to established planning criteria and Indiana Code Sections 8-23-4-2 and 8-23-4-10, that SR 45 from existing US 231 to its northern junction with existing US 231 and SR 245 from SR 66 to SR 70 are no longer the most appropriate and/or convenient ways for INDOT to route state traffic, but the roads will continue to serve a useful local purpose;

WHEREAS, I.C. 8-23-4-12 provides the means to transfer roads or streets between systems; and

NOW, THEREFORE, in consideration of the premises and the mutually dependent covenants, the parties agree as follows:

Section 1 The parties hereto shall comply with applicable provisions set forth in (1) Title 23 of the US Code, (2) the regulations issued thereto, and (3) the policies and procedures of the Federal Highway Administration relative to the work covered by and the roads transferred in this Agreement.

Section 2 INDOT agrees to, prior to transfer, complete the improvements delineated in INDOT's rehabilitation and resurface projects (Contract No. R-24168 and Contract No. RS-24758, respectively) for the resurfacing of existing SR 45 from existing US 231 to US 231 through the Rockport area (estimated completion date of late in 2000).

Section 3 Upon INDOT's acceptance of the contractor's work for the improvements described in Section 2, INDOT shall transfer, and the CITY shall accept, maintenance jurisdiction of the following portion of existing SR 45 (see Exhibit A, attached hereto and made a part hereof):

ITEM R-1 Existing alignment, from its intersection with the southern corporate limits of the CITY (presently just south of the intersection at Center Street) to the south right-of-way setback at its intersection with US 231 (Sycamore Street), approximately 1.40 miles.

Section 4 Upon INDOT's acceptance of the contractor's work for the improvements described in Section 2, INDOT shall transfer, and the COUNTY shall accept, maintenance jurisdiction of the following portions of existing SR 45, SR 245 and Old

SR 162 (see Exhibit A, attached hereto and made a part hereof):

ITEM C-1 Existing alignment of SR 45, from the eastern right-of-way setback from its intersection with existing US 231 to the southern corporate limits of the CITY (presently just south of the intersection at Center Street), approximately 3.84 miles.

ITEM C-2 Existing structure (Bridge #5120) over Garrett Creek.

ITEM C-3 Existing alignment of SR 245, from the northern right-of-way setback from its intersection with SR 66 to the southern right-of-way setback from its intersection with SR 70, approximately 3.97 miles.

ITEM C-4 Existing structure (Bridge #5919 a.k.a. #8112) over Branch Sandy Creek.

ITEM C-5 Existing structure (Bridge #6161) over Sandy Creek.

ITEM C-6 Existing alignment of Old SR 162, from the eastern corporate limits of the Town of Santa Claus to the western right-of-way setback from its intersection with SR 245, and from the eastern right-of-way setback from its intersection with SR 245 to its dead end, for a grand total of approximately 0.59 mile.

Section 5 INDOT agrees to pay the CITY a one (1) time payment in the amount of \$513,600 in lieu of providing curb and inlet replacement as a part of the resurfacing project described in Section 2.

Section 5 INDOT also agrees to pay the CITY a one (1) time payment in the amount of \$11,883.24 and the COUNTY a one (1) time payment in the amount of \$32,623.30 for the interim maintenance of SR 45 prior to the opening of the William H. Natcher bridge over the Ohio River (estimated completion date of 2003).

Section 7 INDOT further agrees to complete the Bridge Replacement Project (No. BR-4174(003)CN) replacing the existing structure (BR. #5919) on SR 245 over Branch Sandy Creek as a part of this transfer (estimated completion date of July 2003).

Section 8 Limited access provisions, if any, shall continue to apply for all right-of-way acquired as part of this transfer.

Section 9 INDOT shall officially notify both the CITY and the COUNTY by separate certified letters to formally establish the date of transfer for the roads and bridges described in Sections 3 and 4. The effective date of the transfers shall be no later than four (4) weeks following the completion date of the project described in Section 2 (estimated date of transfer 12/15/00).

Section 10 Immediately after the effective date of transfer established in Section 7, the CITY and COUNTY shall provide all maintenance, reconstruction and construction for their respective portions of the roads and the bridges described in Sections 3 & 4 (including all traffic and safety devices and appurtenances) of this Agreement.

Section 11 Immediately after the effective date of transfer, electrical energy, if any, required to operate the facilities, traffic signals, and lights along the road and bridge transferred in Sections 3 & 4 of this Agreement shall be paid by the CITY and COUNTY respectively.

Section 12 Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the CITY and COUNTY and/or its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this contract. Acceptance of this Agreement also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

Section 13 When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a multi-term agreement, the multi-term agreement shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

Section 14 This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

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INSOFAR as authorized by law, this AGREEMENT shall be binding upon the parties, their successors or assigns.

THIS AGREEMENT shall not be effective unless and until it is approved by the Attorney General of Indiana, or her authorized representative, as to form and legality.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

CITY OF ROCKPORT

Honorable Joe Greene, Mayor

ATTEST:

Clerk-Treasurer

Date: _____

SPENCER COUNTY COMMISSIONERS

Martha Karen Pennington

Chris E. Leiberling

Dan Rininger

ATTEST:

Sara J. Arnold

Date: _____

STATE OF INDIANA
INDIANA DEPARTMENT
OF TRANSPORTATION

Recommended for Approval:

J. Bryan Nicol
Deputy Commissioner
Operations

Executed by:

Cristine M. Klika
Commissioner

Date: _____

Approved as to Form and
Legality:

Karen Freeman-Wilson
Attorney General of Indiana

(FOR)

Date Approved: _____

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CITY OF ROCKPORT

Honorable Joe Greens, Mayor

ATTEST:

Clerk-Treasurer

Date: _____

SPENCER COUNTY COMMISSIONERS

Martha Karen Pennington

Chris E. Leibering

Dan Rininger

ATTEST:

Sara J. Arnold

Date: _____

**STATE OF INDIANA
INDIANA DEPARTMENT
OF TRANSPORTATION**

Recommended for Approval:

J. Bryan Nicol
Deputy Commissioner
Operations

Executed by:

Cristine M. Klika
Commissioner

Date: _____

Approved as to Form and
Legality:

Karen Freeman-Wilson
Attorney General of Indiana

(FOR)

Date Approved: _____