RESOLUTION NO. 8 -2013
RESOLUTION OF THE COMMON COUNCIL OF
THE CITY OF COLUMBUS,
ADOPTING A CODE OF ETHICAL CONDUCT

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

WHEREAS, Indiana Code 36-4-6-18, authorizes the Common Council to pass Resolutions for the effective government of the City; and

WHEREAS, the Common Council desires to promote confidence in city business regarding the official conduct of officials, councillors, appointees, and employees of city government; and

WHEREAS, it is the desire of the Common Council to provide clear and high ethical standards regarding city business, so that it is transparent and conducive to the public good, and

WHEREAS, officials, councillors, employees, and appointees to councils, boards, commissions, committees and offices of the City of Columbus are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals; and despite this diversity, such individuals choose to serve the City of Columbus and have the obligation to preserve and protect the well-being of the community and its citizens; and

WHEREAS, the purpose of this Resolution is to set clear and high ethical standards for the official conduct of officials, councillors, appointees, and employees of city government, and persons who have a business relationship with city government so that the public will have confidence that the conduct of city business is always conducive to the public good. Citizens, businesses and visitors alike look to government to be a model example of an ethical organization; and

WHEREAS, the City's officials, councillors, appointees and employees shall perform their duties for the benefit of the citizens of the city. They shall conduct the government of the City with loyalty, integrity and impartiality, without the appearance or perception of allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest; and

WHEREAS, public confidence in the integrity of government is essential to the exercise of good government and, accordingly, City officials, councillors, appointees and employees should be committed to the following goals:

1. Duties should be carried out impartially;
2. Decisions and policy should not be made outside of proper channels of city government;
3. Public office should not be used for private gain; and
4. Actions, transactions, or involvements should not be performed or engaged in which have the potential to, or the appearance of, becoming a conflict of interest; and

WHEREAS, this Resolution is not meant to unduly restrict or limit the behavior of the officials, councillors, appointees, or employees during the time when they are not on duty. Each official, councillor, appointee, or employee retains lawful rights and privileges as a private citizen to interests of a personal or private financial nature. These rights and privileges will be honored to the extent that they are compatible with an individual's elected office as an official or councillor, an appointed position, or employment.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Columbus, Indiana, that the following Code of Ethical Conduct, is hereby adopted:

In order to maintain excellence in government and to facilitate the efficient provision of services to the public and to one another, the City of Columbus adopts this Code of Ethical Conduct, which is in addition to any other policies of the City of Columbus.

CODE OF ETHICAL CONDUCT
GENERAL SECTIONS

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Sec. 10. Definitions.

As used in this Code of Ethical Conduct, the following terms shall have the meanings ascribed to them in this section.

Agency means an authority, board, commission, committee, office of the mayor, city common council, city clerk-treasurer, department, office, service, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the city.

Appointee(s) includes, other than an official, councillor or employee:

1. members of all City commissions, committees, and boards established by state statute or local ordinance, policy or motion, who can make binding recommendations and are appointed by the Mayor or the Common Council, and

2. individuals who are appointed to an agency, a municipal corporation, a department, or a governmental entity in the City whose budget is subject to the review of the City Common Council;

Assist* or *assistance means to help, aid, advise, or furnish information to a person, and includes an offer to assist.

Business relationship means dealings with an agency by a person who personally, or as an employee of a person, has or benefits from:

(1) A financial interest in a contract with, or purchase by, an agency; or
(2) A license or permit requiring the exercise of judgment or discretion by the agency.

Such dealings with an agency do not include Tax Abatements considered under I.C. 6-1.1-12.1, *et. seq.*.

Candidate for elected office means a **candidate** for the office of mayor, office of clerk-treasurer and city common council.

City means the City of Columbus, Bartholomew County, Indiana.

Compensation means any money, thing of value, forgiveness, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

Councillor(s) includes the elected Common Council Members.

Department Head means a city employee who is the head of a city department and reports directly to the Mayor or to a board or commission in which the Mayor and/or the Columbus Common Council has appointive powers by a majority of its members.

Dependent means a child, step-child, or adoptee of an individual who is unemancipated and less than 18 years old, or an individual more than one-half (1/2) of whose support is provided during a year by the individual.

Direct line of supervision means an official or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluations. The term does not include the responsibilities of the Mayor or councillors to make decisions regarding salary ordinances, budgets or personnel policies of the agencies.

Employee(s) includes an individual, other than an official, councillor, or appointee, who is employed by a City agency on a full-time or part-time basis, or under any other employment category defined within the Employee Personnel Booklet and/or Personnel Policies.

Entertainment means the free admission or token of admission to a sporting contest, concert, theatrical production, convocation, parade, convention, festival, or other similar show or presentation that is intended for the enjoyment or diversion of members of the public upon paid admission.

Fair market value means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which objectively adequate consideration is provided and neither party is compelled to enter.

Family Member means any person related as a spouse, grandparent, step-grandparent, parent, step-parent, father-in-law, mother-in-law, child, step-child, adopted child, son-in-law, daughter-in-law, grandchild, step-grandchild, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, nephew or first cousin.

Financial interest means an interest which will result in an ascertainable increase or decrease in the income or net worth of any individual or a member of that individual's immediate family, but does <u>not</u> include an interest:

(1) Of an individual in the common stock of a corporation unless the combined holdings in the corporation of an individual, that individual's spouse, and that individual's dependent are more than five percent (5%) of the outstanding shares of the common stock of the corporation; or

(2) Held as an asset in a blind trust.

Immediate family means an individual's spouse or dependent.

Gift means that which is accepted by an individual or by another on the individual's behalf, or that which is paid or given to another for or on behalf of an individual, directly, indirectly, or in trust for the individual's benefit or by any other means, for which equal or greater consideration is not given by the individual.

Among other things, a GIFT <u>may</u> be:

1. real property;
2. the use of real property;
3. tangible or intangible personal property;
4. the use of tangible or intangible personal property;
5. a preferential rate or terms on a debt, loan, goods, or services (which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or public officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin);
6. forgiveness of indebtedness;
7. lodging or parking, food or beverage;
8. membership dues;
9. registration fees other than those subject to 9.34.030(b)(14);
10. tickets to events, performance or facilities;
11. services provided by persons pursuant to a professional license or certificate;
12. other personal services for which a fee is normally charged by the person providing the services;
13. any other similar service or thing having an attributable value not already provided for in this section.

GIFT does <u>not</u> include:

1. Salary, benefits, services, fees, commissions, gifts or expenses associated primarily with an individual's employment or business, or provided to the individual by the City or by an international governmental agency as a customary gift in the normal course of business, to the extent that such gift is not inconsistent with applicable Indiana statutes;
2. An award, plaque, certificate, or similar personalized item given in recognition of the individual's public, civic, charitable, or professional service;
3. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
4. The use of a public facility or public property, made available by a governmental agency, for a public purpose;
5. An honorarium described under Section 9.34.040;
6. An expense related to an honorarium event paid to an individual or an individual's spouse or guest;
7. Transportation provided by a person, agency, entity or business in relation to officially approved governmental business.

Information of a confidential nature means information obtained by reason of the position or office held, and which:

(1) A public agency is prohibited from disclosing under IC 5-14-3-4(a);
(2) A public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed.

Official(s) includes the elected Mayor and elected Clerk-Treasurer of the City.

Person means an individual or firm, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental entity other than the City of Columbus and its agencies.

Political activity means taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

Relative means any person related as a spouse, parent, step-parent, child, step-child, adopted child, son-in-law, daughter-in-law, brother, sister, step-brother, step-sister, brother or sister by half-blood, uncle, aunt, niece, or nephew.

Represent means to attend an agency proceeding, write a letter, or communicate with an official, councillor, appointee, or employee on behalf of a person.

Travel expenses mean the costs of transportation, lodging, and meals. The term includes actual travel expenses or an amount approximating those expenses that would be allowed by travel policies and procedures of the City.

Sec. 20. Gifts; favors; service, entertainment; travel expenses; waivers.

a. An official, councillor, appointee or employee, or the immediate family thereof, shall not knowingly solicit, accept, or receive a gift, favor, entertainment, or travel expense, from a person who has a business relationship with the official's, councillor's, appointee's or employee's agency or is seeking to influence an action by the official, councillor, appointee or employee in his or her official capacity.

b. The prohibition in subsection (a) does not apply to:

    1. Any gift, favor, entertainment, or travel expense from a person and that person's employer that has a cumulative value of zero ($0) or less, in any year between May 1 and April 30;

    2. Gifts, favors, entertainment, or travel expenses to members of the immediate family of an official, councillor, appointee or employee that the official, councillor, appointee or employee may benefit from so long as the gifts or other items of value are provided in the normal course of the immediate family member's employment or volunteer work and the purpose of which is not to influence action or inaction by the appointee or employee;

    3. Any gift, favor, entertainment or travel expense from the employer of an official's, councillor's, appointee's or employee's spouse, not offered in the normal course of business and directed primarily at the spouse, but including the official, councillor, appointee or employee as a guest, that have a cumulative value of zero ($0) in any year between May 1 and April 30;

4. Gifts, favors, entertainment, or travel expenses from relatives, or a person with whom the individual has an ongoing social relationship that existed before the official, councillor, appointee or employee was elected, appointed or employed by the City and/or agency, so long as the gifts or other items of value are paid for personally by the giver, rather than a business or political entity, and not deducted as a business expense;

5. Gifts, favors, entertainment or travel expenses from public agencies or public institutions; however, such gifts, favors, entertainment or travel expenses shall be utilized for the benefit of the city, and not solely for the benefit of one's self or relatives;

6. Food or beverage consumed at a public meeting to which at least six (6) individuals are invited; a meeting will be considered public if:

    A. The event is a reception or other gathering that is not arranged to solicit government procurement of goods or services from anyone who holds a public office at the federal, state, or local level;

    B. The official, councillor, appointee or employee is giving a speech or participating in a presentation in his or her official capacity; or

    C. The meeting has a formal educational program that the official, councillor, appointee or employee is attending to assist him or her in performing official duties;

7. Food, beverage, entertainment, parking, lodging, or registration fees accepted in furtherance of activities to benefit the city related to an economic development effort, including job growth or retention, an area needing redevelopment, and securing convention and visitor business, approved in advance by the mayor or the majority of the City Council.

8. Mementos or souvenirs;

9. Political contributions subject to I.C. 3-9-2 that are reported in accordance with the law;

10. Discount and other promotional programs made generally available and approved in advance by the city operations and finance director or the city attorney;

11. Property accepted as a gift to the city and logged by the Clerk-Treasurer;

12. Donations to an IRS, Section 501(c)(3) Organization, set up through a city agency;

13. Any item of value for which face value or reasonable fair market value is promptly paid;

14. Registration fees for a local community charitable fundraiser event;

15. Solicitation for a charitable or non-profit agency;

16. Reasonable and customary gifts directed to and/or shared with an agency in celebration of a Holiday (i.e. cookies, fruit, flowers, etc...).

Sec. 30. Honoraria.

a. As used in this section, *honorarium* means a payment of money for an appearance, a speech or an article, but does not include payment or reimbursement of travel expenses.

b. A public servant shall not personally accept an honorarium for any activity that may be considered part of his or her official duties; however, a public servant may accept an honorarium on behalf of the city. In addition, a public servant may personally accept an honorarium for activities not done in connection with his or her official duties and that are prepared on his or her own time.

Sec. 40. Political activity and patronage.

a. An appointee or employee shall not engage in political activity during their scheduled city work time, or with city resources.

b. No official, councillor, appointee, or employee may request or compel political activity by a person under threat or promise of official action or inaction. No official, councillor, appointee, or employee may promise an appointment or employment as a reward for any political activity.

c. A department head or director of an agency, appointees, and employees with final purchasing authority shall not solicit political contributions from persons with a business relationship with his or her agency on behalf of any candidate for elected office, unless that individual is a candidate for elected office himself or herself, and in that case, not during their scheduled city work time.

d. It shall not be a violation of this section specifically or this chapter generally for any official, councillor, appointee, or employee:

    1. To encourage another official, councillor, appointee, or employee to work the polls in an official position; however, no appointee's appointment or employee's performance assessment or employment may be affected by an appointee's or employee's decision to work the polls; or

    2. To work the polls in an official position on city time as approved by his or her department head or director.

Sec. 50. Employment restrictions.

a. An official, appointee, or employee shall not knowingly:

    1. Accept outside employment involving compensation of substantial value if the responsibilities of that employment:

        A. Are inherently incompatible with the responsibilities of his or her position; or

        B. Require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be substantially impaired;

or

2. Accept outside employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of city employment.

Sec. 60. Additional or excess compensation.

An official, councillor, appointee, or employee may not solicit or receive compensation:

a. For the sale or lease of any property or service to a person with a business relationship with the councillor or an official's, appointee's, or employee's agency that substantially exceeds that which the councillor, official, appointee, or employee would charge in the ordinary course of business; or

b. For the performance of official duties other than as provided by law.

Sec. 70. Nepotism

a. Starting July 2, 2012, individuals who are family members may not be employed by an agency in a position that results in one (1) family member being in the direct line of supervision of the other family member.

b. This section shall not apply to the following:

1. An individual employed by an agency on or before July 1, 2012 unless the individual has a break in employment with the agency and their reemployment began after July 1, 2012. A list of all City employees employed on July 1, 2012 is attached hereto and incorporated herein as **Attachment A**. A break in employment does not include:

A. An employee that is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

B. An individual's employment with an agency that is terminated followed by immediate reemployment by the agency, without loss of payroll time.

2. An employee of an agency who is employed prior to the date a relative begins serving a term as an official, councillor or appointee, and results in the employee being in the direct line of supervision of the official, councillor or appointee. Said employee may continue his/her employment or hold his/her rank. However, said employee may then not:

A. Be promoted to a new position; or

B. Be promoted to a position that is not within the merit ranks of the Columbus Police Department or Columbus Fire Department;

if the new position would place the employee in the direct line of supervision of a relative.

c. All officials and councilors shall annually certify in writing, by December 31 of each year, compliance with the City's Nepotism Policy.

Sec. 80. Conflicts of interest; discussion, decisions, and voting.

a. At a meeting held in accordance with IC 5-14-1.5, an official or councillor shall not participate in any decision or vote, and an appointee or employee shall not participate in any discussion, decision, or vote, if he or she has knowledge that any of the following has a financial interest in the outcome of the decision or vote:

    1. The official, councillor, appointee, or employee;

    2. A member of the immediate family of the official, councillor, appointee, or employee;

    3. A business organization in which the official, councillor, appointee, or employee is serving as an officer, a director, a trustee, a partner, employee, or subcontractor; or

    4. Any person with whom the official, councillor, employee, or appointee is negotiating or has an arrangement concerning prospective employment.

b. An official, councillor, appointee, or employee who identifies a potential conflict of interest under this article shall recuse himself or herself from further action on the matter.

Sec. 90. Conflicts of interest; contracts.

a. Subject to subsection (b), an official or councillor, appointee, or employee; or a member of an official's, councillor's, appointee's, or employee's immediate family; or a relative of an official or councillor, may not knowingly have a financial interest in a contract made by that official's, councillor's, appointee's, or employee's agency.

b. The prohibition in subsection (a) does not apply to:

    1. An official, councillor, appointee, or employee who does not participate in or have official responsibility for any of the activities of the contracting agency, if:

        A. The contract is made after public notice or, where applicable, through competitive bidding or any other requirements under I.C. 5-22 or I.C. 36-1-21;

        B. The agency makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered, or makes a certified statement of the reasons why the vendor or contractor was selected, as required by I.C. 36-1-21 *et. seq.*, Contracting with a Unit;

        C. The official, councillor, appointee, or employee files with the Clerk-Treasurer's Office and office of the city attorney a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, as required by I.C. 35-44.1-1-4 *et. seq.* and I.C. 36-1-21, *et. seq.*, making full disclosure of all related financial interests in the contract;

        D. The contract can be performed without compromising the performance of the official duties and responsibilities of the official, councillor, appointee, or employee; and

E. In the case of a contract for professional services, the department head or director of the contracting agency makes and files a written certification with the office of the city attorney that no other official, councillor, appointee, or employee of that agency is available to perform those services as part of his or her regular duties;

or

2. An official, councillor, appointee, or employee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), provided that, not later than thirty (30) days after learning of the actual or prospective violation, the official, councillor, appointee, or employee makes a full written disclosure of any financial interests to the contracting agencyand the office of the city attorney, and terminates the financial interest.

c. All officials, councillors, and appointees shall complete a Uniform Conflict of Interest Disclosure Statement (State form 54266 (R/ 6-12 / Form 236) or its amended form, on an annual basis no later than January 31, and submit said form to the city attorney and the Clerk-Treaurer's Office. Employees shall submit them on an as needed basis.

d. All officials and councilors shall annually certify in writing, by December 31 of each year, compliance with contract disclosure as required pursuant to Indiana Code 36-1-21-6.

e. This section does not affect the initial term of a contract in existence at the time the term of office of an official or councillor begins.

Sec. 100. Benefiting from or divulging confidential information.

a. An official, councillor, appointee, employee, former official, former councillor, former appointee, or former employee shall not materially benefit from information of a confidential nature except as permitted by law.

b. An official, councillor, appointee, or employee shall not divulge information of a confidential nature except as permitted by law.

Sec.110. Use of city property.

An official, councillor, appointee, or employee shall not use city property or personnel for any purpose other than for official city business or as allowed under the city's de minimis personal use policy; however, nothing in this Code of Ethical Conduct shall prohibit the use of take home vehicles for the Columbus Police Department officers and Columbus Fire Department officials or other city employees as provided by approved policy.

Sec. 120. Conduct.

a. Each public servant shall demonstrate the highest standards of conduct, personal integrity, respect and honesty in all of their activities in order to inspire public confidence and trust.

b. Each public servant shall undertake their duties in a fair and impartial manner, refraining at all times from discrimination or the dispensation of special privileges.

c. The provision of governmental service requires elected public servants to interact with the public. No signs of partiality, prejudice or disrespect should be evident on the part of public servants toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

d. Public servants are expected to treat citizens with care and respect during public hearings, committing their full attention to the speakers or any materials relevant to the topic at hand. Any comments and non-verbal expressions should be appropriate, respectful and professional. Questions by public servants should seek to clarify or expand information.

e. An issue may be contentious without being hostile, degrading or defamatory. No shouting or physical actions that could be construed as threatening or demeaning are acceptable.

f. Public servants should be patient, dignified, respectful, and courteous to one another, those they deal with in an official capacity, and the citizens who come before them. They should refrain from using profane, indecent, or abusive language directed at another. In return, elected officials, appointees and employees should require similar conduct of those coming before their council, board, commission or committee. No elected officials, appointees and employees shall be expected to endure personal hostility or abuse, regardless of the source.

g. Public servants shall practice civility and decorum in discussion and debates.

h. Public servants are expected to demonstrate, not only publicly but privately, their honesty and integrity and be an example of appropriate and ethical conduct. Public servants should not personally criticize other public servants, nor impugn their integrity. Public servants should treat each other with respect when discussing city issues outside of meetings, and should convey to the public their respect and appreciation for other members and their positions.

i. Public servants should act as cooperatively as possible and may be required, from time to time, to modify to some extent, their positions so that a decision can be reached. Compromise in a member's position does not indicate dishonesty or lack of integrity, but does indicate recognition of the realities involved in reaching a consensus or decision in the best interests of the community.

Sec. 130. Agency policies.

An agency may adopt more specific ethics policies tailored to the needs and practices of that agency, provided that the policies do not conflict with, and are at least as strict as, this Code of Ethical Conduct. All such policies shall be subject to the review and approval of the city attorney or Director of Human Resources where they shall be filed if approved.

Sec. 140. Training requirements.

a. All officials, councilors, appointees, and employees shall be properly trained in the substance of this Code of Ethical Conduct. Such training shall also include a review of criminal offenses against public administration (IC 35-44-1), the Access to Public Records Act (IC 5-14-1.5) and the Open Door Law (IC 5-14-3).

b. The office of the city attorney and/or designees from the Director of Human Resources shall prepare and administer the training required by this Code of Ethical Conduct. Each agency's department head or director shall:

a. Require all new appointees and employees to participate in ethics training within twelve (12) weeks of the appointee's appointment date and the employee's starting employment with the agency; and

b. Require all appointees and employees to participate in ethics training at least every two (2) years during appointee's and employee's tenure with the agency.

c. Each official, councillor, and appointee not covered under (b) shall participate in ethics training within twelve (12) weeks of starting their position.

d. The office of the city attorney and/or the City Clerk-Treasurer's office shall maintain documentation to demonstrate appointee's and employee's compliance with subdivisions (1) and (2) of subsection (b) of this section and official's and councillor's compliance with subdivision (c) of this section.

Sec. 150. Advisory opinions.

Any questions regarding the applicability of this Code of Ethical Conduct to an official, councillor, appointee, employee or situation, may be directed to either the City Attorney or the Human Resources Director.

Sec. 160. Miscellaneous provisions.

In the event that the terms of this Code of Ethical Conduct are in conflict with any state law or ruling of a state agency, such law, rule, regulations and/or ruling of the state agency shall supersede the terms of this chapter.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, on this the 7th day of May, 2013, by a vote of 6 ayes and 1 nays.

Kristen Brown, Mayor
Presiding Officer of the Common Council

ATTEST:

Clerk of the Common Council of Columbus, Indiana
Luann Welmer

CERTIFICATE

The undersigned duly qualified and acting Clerk-Treasurer, of the City of Columbus, Indiana certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Common Council of the City of Columbus, Indiana held on May 7, 2013.