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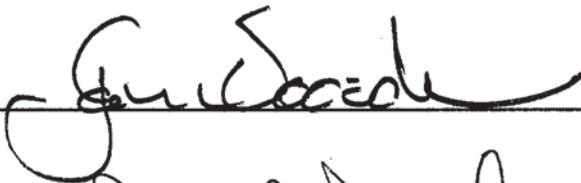
# RESOLUTION

4130-11

Passed by the Common Council of the City of South Bend, Indiana \_\_\_\_\_

November 28, 2011

Attest: \_\_\_\_\_



City Clerk

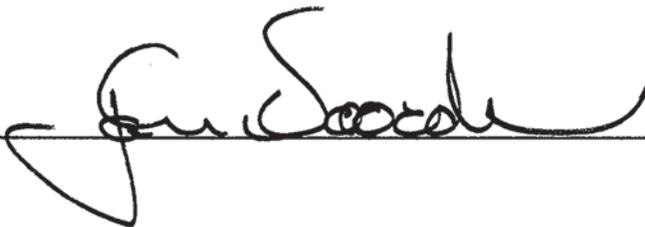
Attest: \_\_\_\_\_



President of Common Council

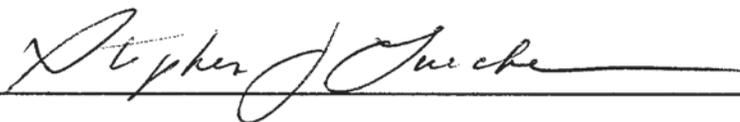
Presented by me to the Mayor of the City of South Bend, Indiana \_\_\_\_\_

November 29, 2011



City Clerk

Approved and signed by me \_\_\_\_\_ November 30, 2011.



Mayor

RESOLUTION NO. 4130-11

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ADOPTING THE AMERICANS WITH DISABILITIES ACT (ADA), DESIGNATING THE ADA COORDINATOR, AND ADOPTING PROCEDURES**

WHEREAS, the Federal government enacted the Americans with Disabilities Act of 1990 (ADA) to prevent discrimination of the physically and mentally disabled relating to employment and access to public facilities; and

WHEREAS, in compliance with Title II of the ADA the City of South Bend shall name an ADA Coordinator; and

WHEREAS, in compliance with Title II of the ADA the City of South Bend shall adopt a grievance procedure for resolving complaints alleging violation of the Title II of the ADA; and

WHEREAS, in compliance with Title II of the ADA the City of South Bend shall publish notice to the public regarding the ADA; and

WHEREAS, in compliance with Title II of the ADA the City of South Bend shall post the ADA coordinator's name, office address, and telephone number along with the ADA Notice and ADA grievance procedure on its website.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND as follows:

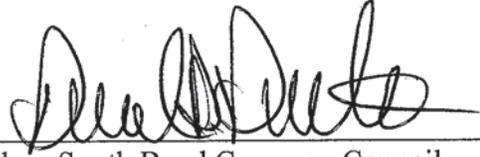
SECTION I. The Chief Assistant City Attorney, Aladean M. DeRose, is designated as the ADA Coordinator for the City of South Bend, Indiana, and South Bend's ADA Coordinator shall be an attorney in the City's Legal Department.

SECTION II. The Notice under the Americans with Disabilities Act, a copy of which is attached hereto as Exhibit "A", is adopted as the City of South Bend Notice under the Americans with Disabilities Act (ADA).

SECTION III. The City of South Bend Grievance Procedure under the ADA, a copy of which is attached hereto as Exhibit "B", is adopted as the grievance procedure for addressing complaints alleging discrimination on the basis of disability in the provisions of services, activities, programs or benefits by the City of South Bend.

SECTION IV. In compliance with Federal and State Laws as set forth above, the Common Council of the City of South Bend resolves to post the required information regarding the ADA coordinator, Notice under the ADA, and the City of South Bend Grievance Procedure under the ADA on its website and at such other locations as may be determined from time to time.

SECTION V. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor



Member, South Bend Common Council

PRESENTED 11-28-11

NOT APPROVED

ADOPTED 11-28-11

Filed in Clerk's Office  
NOV 21 2011  
JOHN V. ...  
CITY CLERK, SOUTH BEND, IN

TO THE COMMON COUNCIL OF THE CITY OF SOUTH BEND:

Your Committee of the Whole, to whom was referred:

**BILL NO.**

11-66            A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF SOUTH BEND, INDIANA, ADOPTING THE  
AMERICANS WITH DISABILITIES ACT (ADA),  
DESIGNATING THE ADA COORDINATOR, AND  
ADOPTING PROCEDURES

Respectfully report that they have examined the matter and that in their opinion,  
this bill is being recommended to the full Council with a favorable  
recommendation.

This bill was heard by the Public Works & Property Vacation Committee.

Timothy Rouse  
Chairperson, Committee of the Whole

## NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), **the City of South Bend** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

**Employment:** The City of South Bend does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

**Effective Communication:** The City of South Bend will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in City of South Bend's programs, services, and activities.

**Modifications to Policies and Procedures:** The City of South Bend will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the city of South Bend, should contact, Office of the ADA Coordinator, Aladean M. DeRose, South Bend Legal Department, 227 W. Jefferson Blvd., Ste 1400, South Bend, Indiana 46601, (574) 235-9241, as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the City of South Bend to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the City of South Bend is not accessible to persons with disabilities should be directed to Office of the ADA Coordinator, Aladean M. DeRose, South Bend Legal Department, 227 W. Jefferson Blvd., Ste 1400, South Bend, Indiana 46601, (574) 235-9241. See South Bend's ADA Grievance Procedure.

The City of South Bend will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

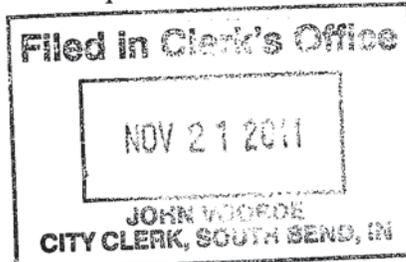


Exhibit "A"

**CITY OF SOUTH BEND, INDIANA  
GRIEVANCE PROCEDURE UNDER  
THE AMERICANS WITH DISABILITIES ACT (ADA)**

The City of South Bend, Indiana, in accordance with the Americans with Disabilities Act ("ADA") has adopted this Grievance Procedure to insure prompt and equitable resolution of complaints alleging discrimination based on disability in the provision of programs, services, benefits, or activities provided by the City of South Bend. Employment related claims of disability discrimination are governed by the City's Personnel Policies.

The steps in the city of South Bend's Grievance Procedure are as follows:

1. File written Complaint using South Bend's form (attached) no later than 60 calendar days after the **date of the violation**. Information must include:

- Name, address, phone number, e-mail (if applicable) of person filing the grievance.
- Name, address, phone number, e-mail (if applicable) of person alleging grievance on behalf of someone else.
- Date and approximate time violation occurred.
- Narrative description of the violation
- Remedy or desired City corrective action

The complaint should be submitted to:

ADA Coordinator, South Bend Legal Department  
227 W. Jefferson Blvd., Ste 1400  
South Bend, IN 466014

**Alternative means of filing Complaints such as personal interviews or a tape recording of the Complaint will be made available for persons with disabilities upon request.**

2. South Bend's ADA Coordinator will acknowledge Complaint with 21 days from date of filing. The ADA Coordinator may meet with Complainant to discuss the Complaint and explore informal resolution to problem.

3. If informal resolution is not reached, then within 30 days after initial response under Step 2, the ADA Coordinator or Designee will respond in writing, and where appropriate, in a format accessible to the Complainant such as large print, or audio tape. The response will explain City's position and offer options for resolution of the Complaint.

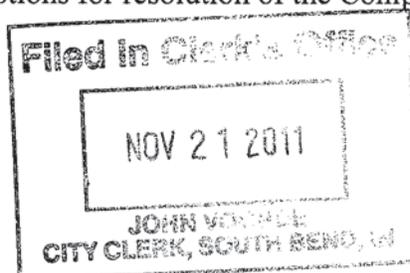


Exhibit "B"

4. If the ADA Coordinator's response does not satisfactorily resolve the issue, the Complainant and/or his/her designee may appeal that decision. This appeal should be made to the Board of Public Works President or designee within 15 days after receipt of the response of the ADA Coordinator, and this appeal request must be made in writing.

5. The Board of Public Works President or designee shall meet with the Complainant within 15 days after receipt of the appeal to discuss the complaint and possible resolutions.

6. Within 15 days after that meeting, the Board Public Works President or designee will respond in writing, and, where appropriate, in a format accessible to the Complainant, with a final resolution of the complaint.

All written Complaints received by the ADA Coordinator or designee or appeals to the Public Works Director or designee will be retained by the City of South Bend for a period of three years.

1400 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830



PHONE 574/235-9241  
FAX 574/235-7670

CITY OF SOUTH BEND STEPHEN J. LUECKE, MAYOR

## DEPARTMENT OF LAW

CHARLES S. LEONE  
CITY ATTORNEY

ALADEAN M. DEROSE  
CHIEF ASSISTANT CITY ATTORNEY

November 21, 2011

Mr. Derek Dieter  
President, South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

Re: Resolution Regarding Americans with Disabilities Act – ADA Coordinator, Grievance Procedure, and Policy

Dear President Dieter:

The Americans with Disabilities Act (ADA) was enacted in 1990 to eradicate discrimination against disabled persons. South Bend's Human Rights Ordinance prohibits discrimination against the disabled in employment and housing. South Bend also joined with St. Joseph County and the City of Mishawaka to form a Disability Rights Commission, which among other things, was designated to receive and resolve complaints from disabled persons about problems with accessibility. The Commission regularly discussed issues affecting the disabled in our County and cities.

South Bend is now in the process of updating its ADA Title II Transition Plan and it has been working with the Michiana Area Council of Government (MACOG) on this process. The attached Resolution is a step in that direction. It formally names and designates an ADA Coordinator, which had been done informally in the past. It also adopts an ADA policy for South Bend and a grievance process.

Previously, South Bend's designee to the Disability Rights Commission was the City's ADA Coordinator. The attached Resolution designates me as the ADA Coordinator due to my knowledge, as counsel to the South Bend Human Rights Commission, of ADA laws and rules.

The ADA Notice attached to and cited in the Resolution is essentially the form of Notice recommended by MACOG which will be or has been adopted by other governmental members of MACOG.

The ADA Grievance Procedure adopted in this Resolution is based on a MACOG template but was revised after I reviewed Grievance Procedures adopted in other U.S. cities. The attached policy, borrows from good ideas contained in other city grievance procedures.

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THOMAS L. BODNAR      CHERYL A. GREENE      ANN-CAROL NASH  
ANDREA L. BEACHKOFKY      LAWRENCE J. METEVER      JEFFREY L. SANFORD      JOHN E. BRODEN

President Dieter  
Page 2  
November 21, 2011

This Resolution is a companion to another Resolution being submitted concurrently which adopts the 2010 ADA Accessibility Standards (ADAAS) promulgated by the U.S. Department of Justice, and the Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) upon their final approval by the Department of Justice.

Thank you for consideration of both Resolutions which I will present to the Common Council at its Committee meeting and at public meeting on November 28, 2011. City Engineer Carl Littrell will be available at the Committee meeting on November 28<sup>th</sup> to answer any technical issues you may have.

Sincerely,



Aladean M. DeRose  
Chief Assistant City Attorney

