

The Board met in due form with the following members present: Frances DuPey and Gerry Scheub. They passed the following orders, to wit:

There was a moment of silent prayer; the Pledge was given and the Emergency Exit Announcement made.

A courtesy copy of the agenda and notice of this meeting was faxed by Brenda Koselke to the Times in Hammond and Crown Point, the Post Tribune, WJOB Radio Station, the Crown Point Star, Cable Regional News Channel 3, Pilcher Publishing and the Valparaiso media on the 17<sup>th</sup> day of April, 2006 at about 4:20 p.m.

A copy of the meeting notice and agenda was posted at the entrance of the Commissioner's courtroom on the 17<sup>th</sup> day of April, 2006 at about 4:20 p.m.

Order#1 – Agenda #5A

In the Matter of Notices/Agenda: Permission to open Bids/Proposals.

Scheub made a motion, seconded by DuPey, to approve the opening of the Bids and Proposals. Motion passed 2-0.

Order#2 – Agenda #5C

In the Matter of Notices/Agenda: Additions, Deletions, and Corrections to Agenda for a Regular Meeting.

Scheub made a motion, seconded by DuPey, to approve the Additions – Item #48A – Dishwasher for the Cafeteria; Item #63A – Agreement to provide Professional Consulting Services to Lake County, Indiana between Maximus, Inc. and the Board of Commissioners of the County of Lake in an amount not to exceed \$16,875.00 for each Cost Allocation Plan and Associated Services; Deletions – Item# 57 – Accurate Sales & Consultants request for permission to seek proposals for the Repair and Installation of New Doors at Westwind Manor. Proposals to be returned by Wednesday, May 17, 2006 prior to 9:30 a.m. in the Lake County Auditor's Office. Motion passed 2-0.

Order#3 – Agenda #5D

In the Matter of Notices/Agenda: Approval of Final Agenda.

Scheub made a motion, seconded by DuPey, to approve the final agenda. Motion passed 2-0.

Order#4 – Agenda #5E

In the Matter of Notices/Agenda: Certificate of Service of Meeting Notice.

Scheub made a motion, seconded by DuPey, to accept and make a matter of public record the certificate of service of meeting notice. Motion passed 2-0.

Order#5 – Agenda #26

In the Matter of L.C. Surveyor – RTK Membership Agreement with Precision Midwest for the year 2006.

Scheub made a motion, seconded by DuPey, to approve the RTK Membership Agreement between the L.C. Surveyor and Precision Midwest for the year 2006. Motion passed 2-0.



**RTK MEMBERSHIP AGREEMENT**

This Membership Agreement (the "Agreement"), dated as of this 19<sup>th</sup> day of April, 2006, is by and between Precision Midwest Ltd. ("PRECISION"), and Lake County Surveyor ("Member") (collectively "the Parties"). This agreement will serve as a Master Agreement covering all Memberships this Member may control. The initial term of this agreement is as of the 1st day of January, 2006 until December 31, 2006.

**1. BACKGROUND AND OBJECTIVES**

Precision Midwest has coordinated the establishment of an RTK Network ("the Network") within the State of Illinois to be owned by Precision Midwest Ltd. The network will have its origins within the Chicago metropolitan area of Illinois and is anticipated to expand outward. Using Trimble Reference Stations, Trimble GPSNet and Trimble RTKNet software, a member with a rover working within the Network will be able to obtain RTK accuracies using Trimble Dual Frequency GPS Receivers.

**2. MEMBERSHIP OBLIGATIONS**

2.1 A Membership is defined as one (1) Rover activated to work within the Network. A Member may have one or more Memberships under its control. For each Membership, PRECISION will issue a username and password that will allow the Rover for the Membership to access to the network.

Username and Passwords assigned to your company:

- Username: LC Password: 7796
- Username:      Password:
- Username:      Password:
- Username:      Password:

2.2 After the initial term of this agreement, each Membership will automatically renew for a period of one-year, January 1 to December 31, at a fee of \$600 per year unless Member notifies PRECISION in writing 30 days prior to the annual renewal.

\* 2.4 Members who installed a qualified Reference Station at their facility may activate up to three (3) Rovers for each Reference Station they have installed and shall be exempt from payment of the initial \$1,000 membership fee and the \$600 annual renewal fee until December 31, 2006. The Member who controls these Memberships may do with them as they see fit, including selling them or sharing them with another company or organization. Reference Stations must meet the specifications set forth by PRECISION to be qualified for access to the Network (See Attachment A).

2.5 Member agrees not to re-broadcast the RTK signal.

### **3. PRECISION MIDWEST LTD. OBLIGATIONS**

3.1 PRECISION will be responsible for implementation of the Network. Once the system is operational, PRECISION agrees to operate and maintain the Network until December 31, 2008. After this initial term, PRECISION will evaluate whether to maintain the network or offer to sell it to the survey industry.

3.2 PRECISION agrees to establish Reference Stations at its own facilities, which meet the specifications, at no cost to the Network or its Members.

3.2 PRECISION reserves the sole right and discretion to refuse access to any Member of the Network that it determines is in breach of this Agreement.

### **4. LIABILITY**

4.1 Neither PRECISION nor other Members shall be liable for RTK data used outside of the limits of the Network as such use may result in degraded accuracies.

4.2 Although PRECISION will use commercially reasonable efforts to maintain continuous RTK service, Members acknowledge that interruptions in service may occur and that data availability is not guaranteed. As a result, neither PRECISION nor any Member shall be liable for the unavailability or inaccuracy of RTK data.

4.3 Members acknowledge that the Global Positioning System ("GPS") is operated by the U.S. Government Department of Defense, which is solely responsible for the accuracy, daily operations and maintenance of the satellites used in that system. As a result, neither PRECISION nor any Member shall be liable for the unavailability or inaccuracy of GPS data.

4.4 Members acknowledge that data obtained through the RTK Network is used at their own risk.

**5. GENERAL**

5.1 This Agreement shall not be construed as constituting either Party as partner of the other or to create any other form of legal association that would impose liability upon one Party for the act or failure to act of the other or as providing either party with the right, power of authority (express or implied) to create any duty or obligation of the other Party. Each Party shall be responsible for the management, direction and control of its employees and such employees shall not be employees of the other Party.

5.2 **Force Majeure.** Neither Party shall be liable for any default or delay in the performance of its obligations hereunder if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions in the United States, or any other similar cause beyond the reasonable control of such party.

In such event, the non-performing party will be excused from any further performance or observance of the obligations(s) so affected for as long as such circumstances prevail and such Party continues to use all commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so delayed in its performance will immediately notify the other by telephone (to be confirmed in writing within five days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

5.3 **Waiver.** No action taken pursuant to this Agreement by either Party shall be deemed to constitute a waiver by such party of compliance with any covenant or agreement contained herein unless the waiver is made expressly in writing signed by the waiving party, and such waiver of any breach of any provision of this Agreement shall not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof.

5.4 **Severability.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and such provision shall be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law(s).

5.5 **Governing Law.** This Agreement shall be governed by the laws of the State of Illinois as such laws are applied to contracts which are entered into and performed entirely within the State of Illinois including the conflicts of law principles thereof. The sole and exclusive venue for any litigation or informal dispute resolution shall be Cook County, Illinois.

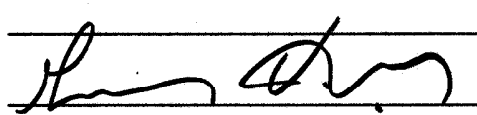
5.6 **Binding Nature and Assignment.** This Agreement will be binding on the Parties and their respective successors and permitted assigns.

THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. FURTHER, THE PARTIES AGREE THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES RELATING TO THIS SUBJECT. THIS STATEMENT OF THE AGREEMENT SUPERSEDES ALL PROPOSALS OR OTHER PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER DESCRIBED IN THIS AGREEMENT.

AGREED:

BY: Richard A. Fisher  
Vice President / VRS Administrator  
Precision Midwest Ltd.

DATE: \_\_\_\_\_


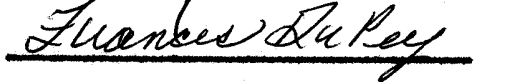
BY: 

DATE: \_\_\_\_\_

(Name and Title)

Lake County Surveyor (Company)

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

APPROVED THIS 19 DAY OF April 2006

**Schedule A**

**Reference Station Specifications**

In order for a Reference Station to be considered for inclusion into the RTK Network, it must meet the following specifications.

1. Reference Station must use a Trimble GPS Zephyr Base Antenna.
2. Reference Station must be located at a manned facility.
3. Reference Station location must have High Speed Internet available.
4. Reference Station location must be free of Multi Path problems.
5. Existing Reference Stations can be Trimble 4000Ssi, Trimble 4700 or Trimble 5700.
6. Reference Stations that are being installed can be Trimble 4700, Trimble 5700 or Trimble NetRS.

Order#6 – Agenda #27

In the Matter of L.C. Surveyor – Ordinance No. 1274a Stormwater Management and Clean Water Regulations Ordinance for Lake County, Indiana.

Scheub made a motion, seconded by DuPey, to approve the L.C. Surveyor’s Ordinance No. 1274a Stormwater Management and Clean Water Regulations Ordinance for Lake County, Indiana. Motion passed 2-0.

Order#7 – Agenda #28

In the Matter of L.C. Surveyor – Request for Release of Monument Bond Check #1016 in the amount of \$4,000.00 for improvements in Hideaway Acres.

Scheub made a motion, seconded by DuPey, to approve the L.C. Surveyor’s Request for Release of Monument Bond Check #1016 in the amount of \$4,000.00 for improvements in Hideaway Acres. Motion passed 2-0.

RELEASE

WHEREAS, MONUMENT Bond in the form of an Check #1016 from Mercantile Bank was filed in the sum of Four Thousand Dollars (\$4,000.00) for improvements in HIDEAWAY ACRES Subdivision. Therefore, the Board of Commissioners of the County of Lake does hereby release said Bond in the form of a OFFICIAL CHECK in the sum of Four Thousand Dollars (\$4,000.00) effective this date.

DATED 19<sup>TH</sup> DAY OF APRIL, 2006.

BOARD OF COMMISSIONERS, COUNTY OF LAKE

GERRY SCHEUB, COMMISSIONER  
FRANCES DUPEY, PRESIDENT

ATTEST: PEGGY KATONA, LAKE COUNTY AUDITOR

RESOLUTION

Before the Board of Commissioners of the County of Lake

Re: INSPECTION OF HIDEAWAY ACRES SUBDIVISION

WHEREAS, The County Surveyor’s Office has examined and filed a written report approving completion of improvements in HIDEAWAY ACRES SUBDIVISION.

Therefore, be it resolved, the BOARD OF COMMISSIONERS of the County of Lake does hereby authorize the release of the Monuments Bond as of this date.

ALL OF WHICH IS HEREBY RESOLVED AND ADOPTED THIS 19<sup>TH</sup> DAY OF APRIL, 2006.

BOARD OF COMMISSIONERS, COUNTY OF LAKE

GERRY SCHEUB, COMMISSIONER  
FRANCES DUPEY, PRESIDENT

ATTEST: PEGGY KATONA, LAKE COUNTY AUDITOR

Order#8 – Agenda #29

In the Matter of L.C. Surveyor – Monument Bond in the form of an Irrevocable Letter of Credit #531 in the amount of \$200,000.00 for improvements in Farmington Meadows Subdivision.

Scheub made a motion, seconded by DuPey, to approve the L.C. Surveyor’s Monument Bond in the form of an Irrevocable Letter of Credit #531 in the amount of \$200,000.00 for improvements in Farmington Meadows Subdivision. Motion passed 2-0.

Date: April 12, 2006  
SUBDIVISION: Farmington Meadows Subdivision  
BONDING COMPANY: Demotte State Bank 210 South Halleck St. – DeMotte, IN 46310  
PETITIONER: Lagen Homes, Inc.

The Board of Commissioners of the County of Lake does accept said Bond as of this date.

TOTAL: \$200,000.00

All of which is hereby resolved and adopted this 19<sup>th</sup> day of April, 2006.

ENTERED IN BOND BOOK NO. AND PAGE NO.

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE  
FRANCES DUPEY, COMMISSIONER  
GERRY SCHEUB, COMMISSIONER

ATTEST: PEGGY HOLINGA KATONA, LAKE COUNTY AUDITOR

## Order#9 – Agenda #30

In the Matter of L.C. Surveyor – Contract with DLZ Indiana, LLC., with Robert P. Kirkley as their designee for Assistant Deputy Surveyor Services for the year 2006.

Scheub made a motion, seconded by Scheub, to approve the L.C. Surveyor – Contract with DLZ Indiana, LLC., with Robert P. Kirkley as their designee for Assistant Deputy Surveyor Services for the year 2006. Motion passed 2-0.

CONSULTING CONTRACT

THIS AGREEMENT, entered into 19<sup>th</sup> day of April, 2006 Effective from January 1, 2006 to December 31, 2006 by and between DLZ INDIANA, LLC, with ROBERT P. KIRKLEY AS THEIR DESIGNEE ASSIGNED BY DLZ INDIANA, LLC, (hereinafter called "Assistant Deputy Surveyor") and the BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE on behalf of the LAKE COUNTY SURVEYOR (hereinafter called the "COUNTY").

WITNESSETH THAT:

NOW THEREFORE, the parties hereto mutually agree as follows:

1. **Employment of Consultant.** The County agrees to engage the Assistant Deputy Surveyor and the Assistant Deputy Surveyor hereby agrees to perform the services designated in the contract.
2. **Scope of Service.** The Assistant Deputy Surveyor shall do, perform, and carry out in a good and professional manner the services:

**ASSISTANT DEPUTY SURVEYOR FOR THE LAKE COUNTY SURVEYOR'S OFFICE**

- A Assistant Deputy Surveyor shall advise and represent the following office, their members and their employees in any situation arising out of the performance of their duties or within the scope of their employment to include but not limited to attendance at board meetings:

**LAKE COUNTY SURVEYOR'S OFFICE**

- B. Assistant Deputy Surveyor shall devote such hours as are necessary to perform the service listed above.
  - C. Assistant Deputy Surveyor shall exercise independent legal judgment to act in the best interest of the parties represented.
  - D. Assistant Deputy Surveyor reports directly to the Lake County Surveyor and/or the Drainage and Surveying Administrator
  - E. Assistant Deputy Surveyor shall be an Indiana registered Land Surveyor and/or professional Civil Engineer and my perform those duties outlined in the County Subdivision and Planning Ordinances, the County Drainage Statute (I.C. 36-9-27-1 et.seq.), the County Surveyor Statute (I.C. 36-2-12-1 et.seq.) and other applicable State and Local Statutes, Ordinances and Resolutions, and Regulations which require acts performed by a Registered Engineer or Registered Surveyor in conformance with I.C. 25-21.5, which include but are not limited to the following:
    - a. Review subdivision plans and other plans and specifications designated under County Ordinance or State relating to storm water Drainage management.
    - b. Review petitions, plans and specifications coming before the Lake County Drainage Board relating to the effects of projects on regulated drains.
    - c. Review petition, plans and specifications submitted by the Deputy Surveyor.
  - F. When a situation arises where the Deputy Surveyor is temporarily unable to fulfill his/her duties, the Assistant Deputy Surveyor may on a case by case basis fulfill that duty.
3. **Time of Performance.** The services to be performed hereunder by the Assistant Deputy Surveyor shall be undertaken and completed in such sequence as to assure their expeditious completion and best carry out the purposes of the agreement.
  4. **Compensation.** The County agrees to pay the Assistant Deputy Surveyor a sum as defined hereunder for all services require herein. Assistant Deputy Surveyor agrees to complete the project and all services provided herein for an amount not to exceed the rates and amounts herein.
    - A. The rate to be paid for services rendered hereunder shall be at the rates and amounts outlined in the attached letter, which is incorporated herein.
  5. **Changes.** The County may, from time to time, require changes in the scope of the services of the Assistant Deputy Surveyor to be performed hereunder. Such changes, which are mutually agreed upon by and between the County and the Assistant Deputy Surveyor, shall be incorporated in a written amendment to this agreement.
  6. **Termination of Agreement.** The County shall have the right to terminate this agreement, with or without cause, by giving written notice to the Assistant Deputy Surveyor of such termination and specifying the effective date thereof, at least Thirty (30) days before the effective date of such termination. In addition, the Assistant Deputy Surveyor may, for any cause, also terminate this agreement by giving written notice to the Lake County Surveyor of such termination and specifying the effective date thereof, at least Thirty (30) days before the effective date of such termination.
  7. **Accomplishment of Project.** The Assistant Deputy Surveyor shall commence, carry on, and complete the project with all practicable dispatch, in a sound economical and efficient manner, in accordance with the provisions thereof and all applicable laws.
  8. **Provisions Concerning Certain Waivers.** Subject to applicable law, any right or remedy which the County may have under this contract may be waived in writing by the County by a formal waiver, if, in the judgment of the County, this contract, as so modified, will still conform to the terms and requirements of pertinent laws.
  9. **Matters to be Disregarded.** The titles of the several sections, Subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

## Order#9 – Agenda #30 (Cont'd)

10. **Completeness of Contract.** This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto.

In the event this document is not fully executed and approved prior to the date of commencement, it shall be deemed retroactive in force and effect to the date of commencement upon and after the full execution, approvals, required filings and recordation.

11. **County Not Obligated to Third Parties.** The County shall not be obligated or liable hereunder to any party other than the Assistant Deputy Surveyor.
12. **When Rights and Remedies Not Waived.** In no even shall the making by the County or any payment to the Assistant Deputy Surveyor constitute or be construed as a waiver by the County of any breach of covenant, or any default which may then exist, on the part if the Consultant, and the making of any such payment by the County while any such breach or default shall exist in no way impair or prejudice any right or remedy available to the County in respect to such breach or default.
13. **Equal Opportunity and Affirmative Action.** The Assistant Deputy Surveyor agrees by the execution of this contract that in regards to its operations:
- A. No person shall, on the grounds of race, color, national origin or sex, be excluded from participation, be denied the benefits of, or be subject to discrimination.
  - B. The principles of equal opportunity in employment and delivery of service are applicable and Assistant Deputy Surveyor commits to a policy and practice of nondiscrimination and affirmative action based upon age, military service, ancestry, color, national origin, physical handicap, political affiliation, race religion, and sex.
  - C. The provisions of the Affirmative Action Program adopted by the Board of Commissioners of the County of Lake on May 31, 1977, as applicable are incorporated by reference as part of this agreement.
  - D. The provisions of all Federal Civil Rights laws and the Indiana Civil Rights law as applicable are incorporated by reference as part of this agreement.
  - E. Breach of any of the equal opportunity and/or nondiscrimination provisions of the agreement remedy available to the County in respect to subject breach or default.
  - F. Where applicable, non-discriminatory clauses and affirmative action clauses shall be made a part of any agreement, contract or lease between the Assistant Deputy Surveyor and any organization, corporation, subcontractor or other legal entity that benefits from the funds paid to the Assistant Deputy Surveyor by the agreement.

14 **Miscellaneous Provisions.**

- A. This agreement represent the entire understanding between the parties and modifications of this agreement shall not be effective unless reduced to writing and signed by both parties. In the event any portion or portions of this agreement are found to be void and voidable portions; these portions shall be stricken and the remaining portions enforced.
- B. The source of funds for payment under this Contract is the Lake County Surveyor's office approved budget and more specifically the line items therein for the payment of these services. By execution of this contract the County is not agreeing to use funds other than the funds in the budget for the purposes enumerated herein. The sources is restricted to these funds which have been appropriated for this purpose by the Lake County Council and approved by the State Board of Tax Commissioners.

- 15 **Notice.** Any notice, bills, invoice, or reports required by this agreement shall be sufficient if sent by the parties hereto in the United States mail, postage paid, to the addresses noted below.

BOARD OF COMMISSIONERS  
OF THE COUNTY OF LAKE  
CROWN POINT, IN 46307  
(219) 755-3200

ROBERT KIRKLEY, PE, LS  
DLZ INDIANA, LLC  
2211 E. JEFFERSON BLVD.  
SOUTH BEND, IN 46615  
219-236-4400

IN WITNESS WHEREOF, the County and the Assistant Deputy Surveyor have executed this agreement as of the date first written above.

THE BOARD OF COMMISSIONER  
OF THE COUNTY OF LAKE

GERRY J. SCHEUB  
FRANCES DUPEY

Assistant Deputy Surveyor  
DLZ Indiana, LLC  
George Van Til, Lake County Surveyor

ATTEST:  
PEGGY KATONA  
LAKE COUNTY AUDITOR

## Order#10 – Agenda #7

In the Matter of Proposals for Waste Removal for the Crown Point and Lowell Garages of the Lake County Highway Department for the year 2006 for the Highway Department.

This being the day, time and place for the receiving of proposals for Waste Removal for the Crown Point and Lowell Garages of the Lake County Highway Department for the year 2006 for the Highway Department, the following proposals were received:

|                      |                 |
|----------------------|-----------------|
| Waste Management     | Various Pricing |
| Waste Management     | Various Pricing |
| Allied Waste Service | Various Pricing |
| Able Disposal        | Various Pricing |



## Order#10 – Agenda #7 (Cont'd)

Scheub made a motion, seconded by DuPey, to take the above proposals under advisement and refer to the Highway Department for tabulation and recommendation. Motion passed 2-0.

## Order#11 – Agenda #8A

In the Matter of Contract for Highway Department – Bituminous Materials and Surface Milling (Delivered and Applied).

The Board having previously taken the above bids under advisement, does hereby award the contract to Rieth-Riley Construction Co., 301 North Cline Avenue, Gary, IN 46404 for Bituminous Materials and Surface Milling (Delivered and Applied) upon a motion by Scheub, seconded by DuPey, with the recommendation of the Highway Superintendent. Motion passed 2-0.

And it appearing to said Board of Commissioners that the above company's bid being the most responsive and responsible bid for Bituminous Materials and Surface Milling (Delivered and Applied) for the Highway Dept., having complied with the law as provided by statute and filed with their bid the proper affidavit as by law provided and their bond or certified check in the amount of:

RIETH-RILEY CONSTRUCTION CO. W/ Travelers Casualty and Surety Company in the amount of 10% of bid is hereby approved by the Board of Commissioners.

There being sufficient unobligated appropriated funds available, the contracting authority of Board of Commissioners hereby accepts the terms of the attached bid for classes or items numbered for BITUMINOUS MATERIALS AND SURFACE MILLING (DELIVERED AND APPLIED) FOR THE LAKE CO. HIGHWAY DEPT. FOR \$1,930,525.00 and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Contracting Authority Members: Date: April 19, 2006

FRANCES DUPEY  
GERRY SCHEUB

RIETH-RILEY CONSTRUCTION CO.

Letter of Recommendation:

April 19, 2006

Lake County Board of Commissioners  
Lake County Government Center  
2293 North Main Street  
Crown Point, IN 46307

ATTN: Lake County Commissioners

Re: Recommendations for the 2006 Annual Bids

Honorable Commissioners:

Please be advised that the Lake County Highway Department is recommending the acceptance of the lowest and most responsive bidder which has met our specifications for the following bids. We have indicated by an asterisk and bold print the bidder we are recommending.

**1. Bituminous Materials and Surface Milling Delivered and Applied**

|  |                |
|--|----------------|
| * Rieth-Riley Construction Co.<br>301 North Cline Avenue<br>Gary, IN 46404 | \$1,930,525.00 |
| Walsh & Kelly<br>1700 E. Main St.<br>Griffith, IN 46319                    | \$2,740,500.00 |

We are recommending the acceptance of the above mentioned bids.

Respectfully,  
Marcus W. Malczewski, Superintendent  
Lake County Highway Department

## Order#12 – Agenda #8B

In the Matter of Contract for Highway Department – Bituminous Materials (Picked Up).

The Board having previously taken the above bids under advisement, does hereby award the contract to Walsh & Kelly 1700 E. Main St., Griffith, IN, for Bituminous Materials (Picked Up) upon a motion by Scheub, seconded by DuPey, with the recommendation of the Highway Superintendent. Motion passed 2-0.

And it appearing to said Board of Commissioners that the above company's bid being the most responsive and responsible bid for Bituminous Materials (Picked Up) for the Highway Dept., having complied with the law as provided by statute and filed with their bid the proper affidavit as by law provided and their bond or certified check in the amount of:

WALSH & KELLY W/ Federal Insurance Company in the amount of 10% of bid is hereby approved by the Board of Commissioners.

There being sufficient unobligated appropriated funds available, the contracting authority of Board of Commissioners hereby accepts the terms of the attached bid for classes or items numbered for BITUMINOUS MATERIALS (PICKED UP) FOR THE

## Order#12 – Agenda #8B (Cont'd)

LAKE CO. HIGHWAY DEPT. FOR \$210,250.00 and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Contracting Authority Members: Date: April 19, 2006

FRANCES DUPEY WALSH & KELLY  
GERRY SCHEUB

Letter of Recommendation:

April 19, 2006

Lake County Board of Commissioners  
Lake County Government Center  
2293 North Main Street  
Crown Point, IN 46307

ATTN: Lake County Commissioners

Re: Recommendations for the 2006 Annual Bids

Honorable Commissioners:

Please be advised that the Lake County Highway Department is recommending the acceptance of the lowest and most responsive bidder which has met our specifications for the following bids. We have indicated by an asterisk and bold print the bidder we are recommending.

**2. Bituminous Materials (Picked Up)**

|  |              |
|--|--------------|
| * Walsh & Kelly<br>1700 E. Main St.<br>Griffith, IN 46319                | \$210,250.00 |
| Rieth-Riley Construction Co.<br>301 North Cline Avenue<br>Gary, IN 46404 | \$246,375.00 |

We are recommending the acceptance of the above mentioned bids.

Respectfully,  
Marcus W. Malczewski, Superintendent  
Lake County Highway Department

## Order#13 – Agenda #8C

In the Matter of Contract for Highway Department – Bituminous Materials for Roadway Patching, Bridge Deck and Approach, Overlays, and Surface Milling (Delivered and Applied).

The Board having previously taken the above bids under advisement, does hereby award the contract to Walsh & Kelly 1700 E. Main St., Griffith, IN, for Bituminous Materials for Roadway Patching, Bridge Deck and Approach, Overlays, and Surface Milling (Delivered and Applied) upon a motion by Scheub, seconded by DuPey, with the recommendation of the Highway Superintendent. Motion passed 2-0.

And it appearing to said Board of Commissioners that the above company's bid being the most responsive and responsible bid for Bituminous Materials for Roadway Patching, Bridge Deck and Approach, Overlays, and Surface Milling (Delivered and Applied) for the Highway Dept., having complied with the law as provided by statute and filed with their bid the proper affidavit as by law provided and their bond or certified check in the amount of:

WALSH & KELLY W/ Federal Insurance Company in the amount of 10% of bid is hereby approved by the Board of Commissioners.

There being sufficient unobligated appropriated funds available, the contracting authority of Board of Commissioners hereby accepts the terms of the attached bid for classes or items numbered for BITUMINOUS MATERIALS FOR ROADWAY PATCHING, BRIDGE DECK AND APPROACH, OVERLAY, AND SURFACE MILLING (DELIVERED AND APPLIED) FOR THE LAKE CO. HIGHWAY DEPT. FOR \$218,500.00 and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Contracting Authority Members: Date: April 19, 2006

FRANCES DUPEY WALSH & KELLY  
GERRY SCHEUB

Letter of Recommendation:

April 19, 2006

Lake County Board of Commissioners  
Lake County Government Center  
2293 North Main Street  
Crown Point, IN 46307

ATTN: Lake County Commissioners

## Order#13 – Agenda #8C (Cont'd)

Re: Recommendations for the 2006 Annual Bids

Honorable Commissioners:

Please be advised that the Lake County Highway Department is recommending the acceptance of the lowest and most responsive bidder which has met our specifications for the following bids. We have indicated by an asterisk and bold print the bidder we are recommending.

**4. Bituminous Materials for Roadway Patching, Bridge Deck and Approach, Overlays, and Surface Milling (Delivered and Applied)**

|  |              |
|--|--------------|
| * Walsh & Kelly<br>1700 E. Main St.<br>Griffith, IN 46319                | \$218,500.00 |
| Rieth-Riley Construction Co.<br>301 North Cline Avenue<br>Gary, IN 46404 | \$231,450.00 |

We are recommending the acceptance of the above mentioned bids.

Respectfully,  
Marcus W. Malczewski, Superintendent  
Lake County Highway Department

## Order#14 – Agenda #8D

In the Matter of Contract for Highway Department – Seal Coat (Chip and Seal).

The Board having previously taken the above bids under advisement, does hereby award the contract to Walsh & Kelly 1700 E. Main St., Griffith, IN, for Seal Coat (Chip and Seal) upon a motion by Scheub, seconded by DuPey, with the recommendation of the Highway Superintendent. Motion passed 2-0.

And it appearing to said Board of Commissioners that the above company's bid being the most responsive and responsible bid for Seal Coat (Chip and Seal) for the Highway Dept., having complied with the law as provided by statute and filed with their bid the proper affidavit as by law provided and their bond or certified check in the amount of:

WALSH & KELLY W/ Federal Insurance Company in the amount of 10% of bid is hereby approved by the Board of Commissioners.

There being sufficient unobligated appropriated funds available, the contracting authority of Board of Commissioners hereby accepts the terms of the attached bid for classes or items numbered for SEAL COAT (CHIP AND SEAL) FOR THE LAKE CO. HIGHWAY DEPT. FOR \$363,850.00 and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Contracting Authority Members: Date: April 19, 2006

FRANCES DUPEY  
GERRY SCHEUB

WALSH & KELLY

Letter of Recommendation:

April 19, 2006

Lake County Board of Commissioners  
Lake County Government Center  
2293 North Main Street  
Crown Point, IN 46307

ATTN: Lake County Commissioners

Re: Recommendations for the 2006 Annual Bids

Honorable Commissioners:

Please be advised that the Lake County Highway Department is recommending the acceptance of the lowest and most responsive bidder which has met our specifications for the following bids. We have indicated by an asterisk and bold print the bidder we are recommending.

**3. Seal Coat (Chip and Seal)**

|  |              |
|--|--------------|
| * Walsh & Kelly<br>1700 E. Main St.<br>Griffith, IN 46319                | \$363,850.00 |
| Rieth-Riley Construction Co.<br>301 North Cline Avenue<br>Gary, IN 46404 | \$541,750.00 |

We are recommending the acceptance of the above mentioned bids.

Respectfully,  
Marcus W. Malczewski, Superintendent  
Lake County Highway Department

Order#15 – Agenda #8E

In the Matter of Bids for Replacement of Lake County Bridge No. 52 carrying 171<sup>st</sup> Avenue over Cedar Creek, Cedar Creek Township for Highway Department.

Scheub made a motion, seconded by DuPey, to reject all of the bids for Replacement of Lake County Bridge No. 52 carrying 171<sup>st</sup> Avenue over Cedar Creek, Cedar Creek Township for Highway Department and re-bid with the return date of Wednesday, May 17, 2006 by 9:30 a.m. Motion passed 2-0.

Order#16 – Agenda #9

In the Matter of L.C. Highway – Change Order No. 1 with American Consulting, Inc. for the Reconstruction of Lake County Bridge #117, Cline Avenue over Turkey Creek in the amount of \$13,825.27.

Scheub made a motion, seconded by DuPey, to approve the L.C. Highway's Change Order No. 1 with American Consulting, Inc. for the Reconstruction of Lake County Bridge #117, Cline Avenue over Turkey Creek in the amount of \$13,825.27. Motion passed 2-0.

Order#17 – Agenda #10

In the Matter of L.C. Highway – Change Order No. 2 with American Consulting, Inc. for the Reconstruction of Lake County Bridge #117, Cline Avenue over Turkey Creek in the amount of -\$815.98.

Scheub made a motion, seconded by DuPey, to approve the L.C. Highway's Change Order No. 2 with American Consulting, Inc. for the Reconstruction of Lake County Bridge #117, Cline Avenue over Turkey Creek in the amount of -\$815.98. Motion passed 2-0.

Order#18 – Agenda #11

In the Matter of L.C. Highway – Supplemental Agreement #3 with Beam, Longest and Neff, L.L.C. for the Design Engineering Services for the Replacement of L.C. Bridge #91, 109<sup>th</sup> Avenue over Niles Ditch in the amount of \$9,500.00.

Scheub made a motion, seconded by DuPey, to approve the Supplemental Agreement #3 between the L.C. Highway and Beam, Longest and Neff, L.L.C. for the Design Engineering Services for the Replacement of L.C. Bridge #91, 109<sup>th</sup> Avenue over Niles Ditch in the amount of \$9,500.00. Motion passed 2-0.

SUPPLEMENTAL AGREEMENT  
NO. 3

This Supplemental Agreement, made and entered into this 19 day of April, 2006, by and between Lake County, Indiana, acting by and through its Board of County Commissioners (hereinafter referred to as the "OWNER"), and Beam, Longest and Neff, L.L.C., Consulting Engineers, 8126 Castleton Road, Indianapolis, Indiana 46250 (hereinafter referred to as the "CONSULTANT").

## WITNESSETH:

WHEREAS, the OWNER and the CONSULTANT did enter into an Agreement, dated August 20, 2003, to provide professional engineering services for the replacement of Lake County Bridge No. 91, 109<sup>th</sup> Avenue over Niles Ditch, and Supplemental Agreement No. 1, dated September 1, 2004, for improvements to the intersection of Colorado Street and 109<sup>th</sup> Avenue, and Supplemental Agreement No. 2, dated July 20, 2005, to perform additional geotechnical investigations to delineate the peat/marl zones, and,

WHEREAS, additional design and right-of-way services are required due to property owner sell offs, changes due to the presence of peat deposits, the need for private drive location studies and peat deposit remediation studies, and,

WHEREAS, the CONSULTANT is qualified and prepared to perform the services required in said work and they agree to perform such services under the terms and conditions herein set forth, and,

WHEREAS, in order to provide for completion of the work as modified, it is necessary to amend and supplement the original Agreement and Supplemental No.'s 1 and 2,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. On page 1, Appendix D of the original Agreement, under Item 1, the not to exceed limit is increased by \$9,500.00 to \$175,000.00.
2. On page 1, Appendix D of the original Agreement, under Item 1, paragraph c (Design), the lump sum amount is increased by \$2,500.00 to \$66,700.00.
3. On page 1, Appendix D of the original Agreement, under Item 1, paragraph g (ROW Acquisition Services), the not to exceed limit is increased by \$7,000.00 to \$36,300.00.


- 4. On page 1, Appendix C of the original Agreement, under Schedule, the amount of days to complete Right-of-Way Services is increased by 90 days.
- 5. Except as herein modified, changed and supplemented, all terms of the original Agreement, dated August 20, 2003, Supplemental No. 1, dated September 1, 2004 and Supplemental No. 2, dated July 20, 2005 shall continue in full force and effect.


IN TESTIMONY WHEREOF, the parties hereto have executed this Supplemental Agreement No. 3 the day and year first above mentioned.

CONSULTANT:  
BEAM, LONGEST AND NEFF, L.L.C.


  
\_\_\_\_\_  
(President)

OWNER:  
BOARD OF COUNTY COMMISSIONERS  
LAKE COUNTY, INDIANA


  
\_\_\_\_\_

  
\_\_\_\_\_


ATTEST:

  
\_\_\_\_\_

ATTEST:

  
\_\_\_\_\_  
Peggy H. Katona, Lake County Auditor

Approved as to Legality and Form:

  
\_\_\_\_\_  
Mark Thiros, Attorney

Order#19 – Agenda#12

In the Matter of L.C. Highway – Engineering Agreement with MS Consultants, Inc. to provide Construction Engineering Services for the Replacement of L.C. Bridge No. 52, 171<sup>st</sup> Street over Cedar Creek in the amount not to exceed \$55,916.18.

Scheub made a motion, seconded by DuPey, to approve the Engineering Agreement between the L.C. Highway and MS Consultants, Inc. to provide Construction Engineering Services for the Replacement of L.C. Bridge No. 52, 171<sup>st</sup> Street over Cedar Creek in the amount not to exceed \$55,916.18. Motion passed 2-0.

**LOCAL FUNDED  
ENGINEERING AGREEMENT**

THIS AGREEMENT is made and entered into April 19, 2006, by and between Lake County, Indiana, acting by and through its Board of Commissioners, hereinafter referred to as the “LOCAL PUBLIC AGENCY”, and

ms consultants, inc.  
8900 Keystone Crossing, Suite 775  
Indianapolis, Indiana 46240-7644

hereinafter referred to as the “CONSULTANT”.

**WITNESSETH**

WHEREAS, the LOCAL PUBLIC AGENCY desires to contract for the construction engineering services for the project hereinafter described and,

WHEREAS, the CONSULTANT has expressed a willingness to provide the engineering services for the project hereinafter described and,

WHEREAS, the parties hereto agree that said CONSULTANT shall provide the construction engineering services and documents, hereinbefore and hereinafter described, in relation to the following described project:

Replacement of Lake County Bridge No. 52  
On 171<sup>st</sup> Avenue over Cedar Creek

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

**Section I. Services by CONSULTANT**

The services to be provided by the CONSULTANT under this Agreement are as set out in Appendix “A”, which is attached to this Agreement and incorporated herein by reference.

**Section II. Information and Services to be Furnished by LOCAL PUBLIC AGENCY**

The information and services to be furnished by the LOCAL PUBLIC AGENCY are as set out in Appendix “B”, which is attached to this Agreement and incorporated herein by reference.

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**Section III. Notice to Proceed and Schedule**

The CONSULTANT shall begin the services to be performed under this Agreement immediately upon receipt of the written notice to proceed from the LOCAL PUBLIC AGENCY, and shall deliver the work to the LOCAL PUBLIC AGENCY in accordance with the Schedule contained in Appendix "C", which is attached to this Agreement and incorporated herein by reference.

The CONSULTANT shall not begin work prior to the date of the notice to proceed.

The LOCAL PUBLIC AGENCY reserves the right to issue notice to proceed on all or part of the work included in this Agreement subject to available funding.

**Section IV. Compensation**

The CONSULTANT shall receive payment for the services performed under this Agreement as set forth in Appendix "D", which is attached to this Agreement and incorporated herein by reference.

**Section V. General Provisions****1. Work Office**

CONSULTANT shall perform the work under this Agreement at the following office(s):

**ms consultants, inc.**

8900 Keystone Crossing, Suite 775

Indianapolis, Indiana 46240-7644

**2. Subletting Assignment of Contract**

No portion of the services under the Agreement shall be sublet, assigned or otherwise disposed of, except with the consent of the LOCAL PUBLIC AGENCY. Consent to sublet, assign or otherwise dispose of any portion of the work under this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Agreement. A subconsultant shall not subcontract any portion of its services under this Agreement.

**3. Ownership of Documents**

All documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc., as instruments of service, are to be the property of the LOCAL  
**ms consultants, inc.**



PUBLIC AGENCY. During the performance of the services herein provided for, the CONSULTANT shall be responsible for any loss or damage to the documents herein enumerated while they are in his possession and any such loss or damage be restored at his expense.

4. Access to Records

Full access to the work during the progress of the work shall be available to the LOCAL PUBLIC AGENCY. The CONSULTANT and his subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three years from the date of final payment under the terms of this Agreement, for inspection by the LOCAL PUBLIC AGENCY.

5. Compliance with State and Other Laws

The CONSULTANT specifically agrees that in performance of the services herein enumerated by him or by a subconsultant or anyone acting in behalf of either, that he or they will comply with applicable state, federal, and local statutes, ordinances, and regulations and assist the LOCAL PUBLIC AGENCY in obtaining all permits that are applicable to the entry into and the performance of this Agreement.

6. Liability for Damages

At CONSULTANT's expense, CONSULTANT shall take necessary precautions for the safety of, and the prevention of injury, loss and damage or death to, persons and property as a result of the CONSULTANT's services being performed under this Agreement, and shall comply with all applicable provisions of safety laws, rules, ordinances, regulations and orders of duly constituted public authorities.

Neither the professional activities of the CONSULTANT, nor the presence of the CONSULTANT or its employees and subconsultants at a construction/ project site, shall relieve the General Contractor of its obligations, duties, and responsibilities, including but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The CONSULTANT and its personnel have no authority to exercise any control over any construction contractor or its

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employees in connection with their work or any health or safety programs or procedures. The LOCAL PUBLIC AGENCY agrees that the General Contractor shall be solely responsible for jobsite safety and warrants that this intent shall be carried out in the LOCAL PUBLIC AGENCY's contract with the General Contractor. The LOCAL PUBLIC AGENCY also agrees that the LOCAL PUBLIC AGENCY, the CONSULTANT, and the CONSULTANT's subconsultants shall be indemnified by the general Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

CONSULTANT shall be knowledgeable of applicable national and state laws and municipal ordinances and regulations affecting the CONSULTANT's services or performance under this Agreement, and shall indemnify the LOCAL PUBLIC AGENCY, its officers, agents and employees against any liability, including reasonable attorney's fees, based on the violation of applicable laws, regulations or ordinances.

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the LOCAL PUBLIC AGENCY, and any employees of it from and against all damages, losses and expenses, including, but not limited to, reasonable attorney's fees resulting from the services performed under this Agreement, provided that such damage, loss or expense is caused solely by the negligent acts of the CONSULTANT, his subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnities which would otherwise exist as to a party or person described in this paragraph.

The CONSULTANT shall be responsible for keeping the LOCAL PUBLIC AGENCY currently advised as to the status of any claims made for damages against the CONSULTANT resulting from services performed under this Agreement. The CONSULTANT shall send notice of claims related to work under this Agreement to:

County Highway Superintendent  
Lake County Highway Department  
1100 E. Monitor Street  
Crown Point, IN 46307

The CONSULTANT'S indemnity obligations shall survive the completion, cancellation or early termination of the Agreement.

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7. Worker's Compensation and Liability Insurance

The CONSULTANT shall procure and maintain, until final payment by the LOCAL PUBLIC AGENCY for the services covered by this Agreement, insurance of the kinds and in the amounts hereinafter described provided by insurance companies authorized to do such business in the state of Indiana covering all operations under this Agreement performed by CONSULTANT. CONSULTANT shall require the same of its subconsultants performing services covered by this agreement. The CONSULTANT will not be given a notice to proceed until the CONSULTANT has furnished a certificate or certificates in a form satisfactory to the LOCAL PUBLIC AGENCY, showing that this section has been complied with. During the life of this Agreement, the CONSULTANT shall furnish the LOCAL PUBLIC AGENCY with certificates showing that the required insurance coverage is maintained. The certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the LOCAL PUBLIC AGENCY. In the event that such written notice of change or cancellation is given, the LOCAL PUBLIC AGENCY may at its sole option terminate this Agreement and no further compensation shall in such case be made to the CONSULTANT.

The kinds and amounts of insurance required are as follows:

(A) Policy covering the obligations of the CONSULTANT in accordance with the provisions of the Worker's Compensation Law, specifically including coverage for the State of Indiana. This Agreement shall be void and of no effect unless the CONSULTANT procures such policy and maintains it until acceptance of the work.

(B) The CONSULTANT shall maintain a Comprehensive General Liability Form of Insurance with personal injury of not less than One Million Dollars (\$1,000,000) in any one occurrence, and One Million Dollars (\$1,000,000) for two or more persons in any one occurrence with property damage liability limits of Five Hundred Thousand Dollars (\$500,000). The policy shall include LOCAL PUBLIC AGENCY's and CONSULTANT's Comprehensive General Liability on a "blanket" basis to cover the operations of any subconsultants. The policy shall specifically include coverage for "hold harmless" clause (Contractual Liability)

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contained elsewhere in the Agreement and this shall appear on the certificate. The LOCAL PUBLIC AGENCY's and CONSULTANT's Comprehensive General Liability policy shall be written with a limit of One Million Dollars (\$1,000,000).

(C) The CONSULTANT shall maintain a comprehensive automobile form of insurance with personal injury liability limits of not less than One Million Dollars (\$1,000,000) in any one occurrence, and One Million Dollars (\$1,000,000) for two or more persons in any one occurrence. Property damage liability insurance shall be maintained with limits of not less than One Million Dollars (\$1,000,000) for any one occurrence. This coverage may be provided either as a separate policy or as a part of the comprehensive general liability form of policy described previously. The automobile insurance must include coverage for all owned, non-owned and hired vehicles.

(D) CONSULTANT shall maintain Professional Liability coverage. The Professional Liability coverage shall be in effect from the effective date of this Agreement and CONSULTANT shall endeavor to keep coverage in effect continuously, if available to the engineering profession and of reasonable premium level. Coverage also shall extend to employees who may retire, transfer, or otherwise cease employment with CONSULTANT during the coverage period only for work done on behalf of the CONSULTANT.

8. Progress Reports

The CONSULTANT shall submit a Progress Report to the LOCAL PUBLIC AGENCY with each request for payment, showing progress to the ending date of the period for which the claim is being made. The report shall consist of a progress chart with the initial schedule over which shall be superimposed the current status of the work.

9. Changes in Work

In the event that the LOCAL PUBLIC AGENCY requires a major change in scope, character or complexity of the CONSULTANT's services after the services have progressed as directed by the LOCAL PUBLIC AGENCY, adjustments in compensation to the CONSULTANT and adjustments to time allowed for performance of the services as modified

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shall be determined by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment. The CONSULTANT shall not commence the additional services or the change of the scope of the work until a supplemental agreement is executed and the CONSULTANT is authorized in writing by the LOCAL PUBLIC AGENCY.

10. Delays and Extensions

The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LOCAL PUBLIC AGENCY. It being understood, however, that the permitting of the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL PUBLIC AGENCY of any of its rights herein.

11. Abandonment and Termination

The LOCAL PUBLIC AGENCY reserves the right to terminate or suspend this Agreement for any reason upon written notice.

If the LOCAL PUBLIC AGENCY shall abandon the services herein mentioned, the CONSULTANT shall deliver to the LOCAL PUBLIC AGENCY all data, reports, drawings, specifications and estimates completed or partially completed and theses shall become the property of the LOCAL PUBLIC AGENCY. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the CONSULTANT to the date of the abandonment, which estimate shall be as made by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment for all services to be paid for on a lump sum basis, and shall be based upon an audit for those services to be paid for on a cost basis or a cost plus fixed fee basis.

If, at any time, for any cause whatsoever, the CONSULTANT shall abandon or fail to timely perform any of its duties hereunder, including the preparation and completion of plans and specifications within the schedule specified in Appendix "C", or within such further extension or extensions of time as agreed upon, the LOCAL PUBLIC AGENCY may give written notice that

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if the CONSULTANT shall not, within twenty (20) calendar days from the date of such notice, have complied with the requirements of this Agreement, then the Agreement is terminated. Upon the mailing or delivery of such notice or personal delivery thereof to the CONSULTANT, and the failure of the CONSULTANT within the twenty (20) day period to fully comply with each and all requirements of this Agreement, this Agreement shall terminate and the LOCAL PUBLIC AGENCY may by any method it deems to be necessary designate and employ other consultants, by contract or otherwise, to perform and complete the services herein described. When written notice is referred to herein, it shall be deemed given when deposited in the mail addressed to the CONSULTANT at its last known address. No further compensation will be made to the CONSULTANT for work completed but terminated under this paragraph.

In case the LOCAL PUBLIC AGENCY shall act under the preceding paragraph, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Agreement, shall be delivered within twenty (20) days to the LOCAL PUBLIC AGENCY. In the event of failure by the CONSULTANT to make such delivery upon demand, then and in that event the CONSULTANT shall pay to the LOCAL PUBLIC AGENCY any damages it may sustain by reason thereof.

12. Standard of Care

The CONSULTANT shall endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services if the errors or deficiencies resulted, independently of all other causes, from negligence of the CONSULTANT.

Neither the LOCAL PUBLIC AGENCY's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the CONSULTANT shall be and remain liable to the LOCAL PUBLIC AGENCY in accordance with applicable law for all damages to the LOCAL PUBLIC AGENCY caused by the CONSULTANT's negligent performance of any of the services furnished under **ms consultants, inc.**

this Agreement. Any construction costs, legal fees and administrative costs incurred by the LOCAL PUBLIC AGENCY due to negligent performance or errors in design by the CONSULTANT shall be paid by the CONSULTANT upon demand by the LOCAL PUBLIC AGENCY.

13. Non-Discrimination

The CONSULTANT and his subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of Agreement.

14. Successors and Assignees

The LOCAL PUBLIC AGENCY, insofar as authorized by law, binds itself and its successors, and the CONSULTANT binds its successors, executors, administrators and assignees, to the other party of this Agreement and to the successors, executors, administrators, and assignees of such other party, as the case may be insofar as authorized by law, in respect to all covenants of this Agreement.

Except as above set forth, neither the LOCAL PUBLIC AGENCY nor the CONSULTANT shall assign, sublet or transfer its or his interest in this Agreement without the consent of the other.

15. Supplements

This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

16. Governing Law

This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

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17. Notification

All written notices required by this Agreement shall be sent to the parties at the following addresses:

## LOCAL PUBLIC AGENCY:

Marcus W. Malczewski, Superintendent  
Lake County Highway Department  
1100 East Monitor Street  
Crown Point, Indiana 46307

## CONSULTANT:

Michael D. Kratofil  
ms consultants, inc.  
8900 Keystone Crossing, Suite 775  
Indianapolis, Indiana 46240-7644

18. Mediation

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the LOCAL PUBLIC AGENCY and the CONSULTANT agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The LOCAL PUBLIC AGENCY and the CONSULTANT further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants to also include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers, and fabricators, thereby providing for mediation as the primary method for dispute resolution between parties to all those agreements.

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IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement.

CONSULTANT

LOCAL PUBLIC AGENCY

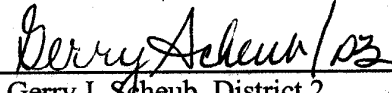
ms consultants, inc.

Board of County Commissioners  
Lake County, Indiana

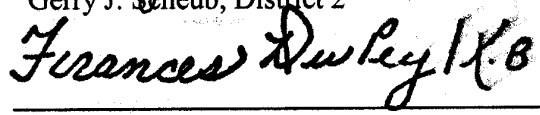
By:   
(Signature)

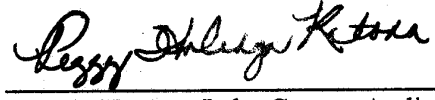
By: \_\_\_\_\_  
Rudolph Clay, District 1

Michael D Kratofil  
(Typed Name)

By:   
Gerry J. Scheub, District 2

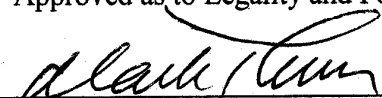
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By:   
Frances DuPey, District 3

Attest:   
Peggy Katona, Lake County Auditor

Date 04/19/06

Approved as to Legality and Form:

  
Mark Thiros, Attorney for Lake County

## Order#20 – Agenda #13

In the Matter of L.C. Highway – Agreement with RQAW Corporation to provide Design Engineering Services for the Rehabilitation of L.C. Bridge #196, Ridge Road over Kennedy Avenue in an amount not to exceed \$65,240.00.

Scheub made a motion, seconded by DuPey, to approve the Agreement between the L.C. Highway and RQAW Corporation to provide Design Engineering Services for the Rehabilitation of L.C. Bridge #196, Ridge Road over Kennedy Avenue in an amount not to exceed \$65,240.00. Motion passed 2-0.

**AGREEMENT**

THIS AGREEMENT is made and entered into April 19, 2006, by and between Lake County, acting by and through the Board of County Commissioners, hereinafter referred to as the LOCAL PUBLIC AGENCY or LPA, and RQAW CORPORATION OF INDIANAPOLIS, INDIANA, (hereinafter referred to as the "CONSULTANT").

**WITNESSETH**

WHEREAS, the LOCAL PUBLIC AGENCY desires to contract for performing engineering services for REHABILITATION OF LAKE COUNTY BRIDGE NO. 196, RIDGE ROAD OVER KENNEDY AVENUE, as detailed in Appendix "A".

WHEREAS, the CONSULTANT has expressed a willingness to furnish the engineering services as set forth in Appendix "A".

NOW, THEREFORE, the parties have hereto agreed that said CONSULTANT shall provide the services and documents described hereinbefore and hereinafter described, in relation to the following described project(s):

REHABILITATION OF LAKE COUNTY BRIDGE NO. 196  
RIDGE ROAD OVER KENNEDY AVENUE

NOW THEREFORE, in consideration of the following mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

**SECTION I: SERVICES BY CONSULTANT**

The services to be provided by the CONSULTANT under this Agreement are as set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

SECTION II: INFORMATION AND SERVICES TO BE FURNISHED BY LOCAL PUBLIC AGENCY

The information and services to be furnished by the LOCAL PUBLIC AGENCY are as set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

SECTION III: NOTICE TO PROCEED AND SCHEDULE

The CONSULTANT shall begin the work to be performed under this Agreement immediately upon receipt of the written notice to proceed from the LOCAL PUBLIC AGENCY, and shall deliver the work to the LOCAL PUBLIC AGENCY in accordance with the schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof.

The Consultant shall not begin work prior to the date of the notice to proceed.

SECTION IV: COMPENSATION

The CONSULTANT shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

The cost principles contained in the Federal Acquisition Regulations, 48 CFR Part 31, shall be adhered to for work under this Agreement.

SECTION V: GENERAL PROVISIONS

1. Work Office:

The CONSULTANT shall perform the work under this Agreement at the following office(s): RQAW Corporation, 4755 Kingsway Drive, Suite 400, Indianapolis, Indiana 46205.

The CONSULTANT shall notify the LOCAL PUBLIC AGENCY of any change in its mailing address and/or the location(s) of the office(s) where the work is performed.

2. Employment:

During the period of this Agreement, the CONSULTANT shall not engage, on a full or part time or other basis, any LOCAL PUBLIC AGENCY personnel who remain in the employ of the LOCAL PUBLIC AGENCY.

3. Covenant Against Contingent Fees:

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the LOCAL PUBLIC AGENCY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

4. Subletting and Assignment:

No portion of the work under the Agreement shall be sublet, assigned or otherwise disposed of, except with the written consent of the LOCAL PUBLIC AGENCY. Consent to sublet, assign or otherwise dispose of any portion of the work under this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this agreement. A subcontractor shall not subcontract any portion of its work under this Agreement.

5. Ownership of Documents:

All documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc. ("the documents"), as instruments of service, shall remain the property of the LOCAL PUBLIC AGENCY. Neither the LOCAL PUBLIC AGENCY, nor any person, firm or corporation acting on behalf of the of the LOCAL PUBLIC AGENCY,

shall use the documents, or copies of the documents, for any work or project other than the work or project for which the CONSULTANT prepared the documents. The CONSULTANT shall have no liability for personal injury, death, property damage or economic loss, of whatever kind or character, arising out of, or relating to, the use by LOCAL PUBLIC AGENCY or any person, firm or corporation acting on behalf of LOCAL PUBLIC AGENCY, of the documents, or copies of the documents, for any work or project other than the work or project for which the CONSULTANT prepared the documents.

The LOCAL PUBLIC AGENCY may make unlimited copies of the documents furnished by the CONSULTANT.

6. Access to Records:

The CONSULTANT and his subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred, and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three years from the date of final payment under the terms of this Agreement for inspection by the LOCAL PUBLIC AGENCY, and copies thereof shall be furnished if requested.

7. Compliance with State and Other Laws:

The CONSULTANT specifically agrees that in performance of the services herein enumerated by him or by a subcontractor or anyone acting on behalf of either, that he or they will comply with any and all State, Federal and Local statutes, ordinances, and regulations, and obtain all permits that are applicable to the entry into and the performance of this Agreement.

8. Responsibility for Claims and Liabilities:

A. The CONSULTANT shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications and other services furnished by the CONSULTANT under this contract. The CONSULTANT

shall, without additional compensation, correct or revise any errors or deficiencies in its design, drawings, specifications, and other services if the errors or deficiencies resulted, independently of all other causes, from negligence of the CONSULTANT. The CONSULTANT shall not be responsible for errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of the LOCAL PUBLIC AGENCY or other consultants, including, without limitation, surveyors and geotechnical engineers, who have been retained by LOCAL PUBLIC AGENCY. The CONSULTANT shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such errors, omissions or deficiencies were known or should have been known by the CONSULTANT) in the designs, drawings, specifications and other services furnished by the LOCAL PUBLIC AGENCY, INDOT, or other consultants retained by the LOCAL PUBLIC AGENCY. It is expressly understood that the CONSULTANT shall indemnify and hold harmless the LOCAL PUBLIC AGENCY from claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the services of the CONSULTANT under this Agreement, and such indemnity shall not be limited by reason of the enumeration of any insurance coverage hereinafter provided.

- B. Neither the LOCAL PUBLIC AGENCY'S review, approval or acceptance of, nor payment for, the services required under this contract, shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the CONSULTANT shall be and remain liable to the LOCAL PUBLIC AGENCY in accordance with applicable law for all damages to the LOCAL PUBLIC AGENCY caused by the CONSULTANT'S negligent performance of any of the services furnished under this contract.

- C. The CONSULTANT shall be responsible for all damage to life and property caused by errors or omissions of the CONSULTANT, its subcontractors, agents, or employees in connection with the services rendered by the CONSULTANT pursuant to this contract. The CONSULTANT shall indemnify, defend, and hold harmless the LOCAL PUBLIC AGENCY, INDOT and the State of Indiana, their officials and employees, from any liability due to loss, damage, injuries, or other casualties of whatever kind, which, directly and independently of all other causes, arise out of, or result from, the negligence of the CONSULTANT by this contract.
- D. The CONSULTANT shall have no responsibility for supervising, directing or controlling the work of contractors or other consultants retained by the LOCAL PUBLIC AGENCY, nor shall the CONSULTANT have authority over, or responsibility for, the means, methods, techniques, sequences or procedures of construction (except those required by the contract plans, specifications, special provisions, etc., prepared by the CONSULTANT) selected by the contractors. The CONSULTANT shall have no responsibility for the safety of persons on or off the job site, and whether or not engaged in the work, for safety precautions and programs incident to the work of contractors, or for any failure of contractors or others to exercise care for the safety of any person, including employees of contractors, or to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor's performance of the work.
- E. The rights and remedies of the LOCAL PUBLIC AGENCY provided for under this contract are in addition to any other rights and remedies provided by law.
- F. The CONSULTANT shall have an affirmative duty to advise the LOCAL PUBLIC AGENCY of any known or obvious errors, omissions, or deficiencies in the designs, drawings, specifications, reports or other services of the LOCAL PUBLIC AGENCY or consultants retained by the LOCAL PUBLIC AGENCY.

9. Status of Claims:

The CONSULTANT shall be responsible for keeping the LOCAL PUBLIC AGENCY currently advised as to the status of any claims made for damages against the CONSULTANT resulting from services performed under this Agreement. The CONSULTANT shall send notice of claims related to work under this Agreement to the LOCAL PUBLIC AGENCY.

10. Workman's Compensation:

The CONSULTANT shall procure and maintain, until final payment by the LOCAL PUBLIC AGENCY for the services covered by this Agreement, insurance of the kinds and in the amounts hereinafter provided by insurance companies authorized to do such business in the State of Indiana covering all operations under this Agreement, whether performed by him or his subcontractors. The CONSULTANT shall not be given notice to proceed until the CONSULTANT has furnished a certificate or certificates in a form satisfactory to the LOCAL PUBLIC AGENCY, showing that this section has been complied with. During the life of this Agreement, the CONSULTANT shall provide the LOCAL PUBLIC AGENCY with certificates showing that the required insurance is maintained. The certificate or certificates shall provide that the policies shall not be changed or cancelled until ten (10) days written notice has been given to the LOCAL PUBLIC AGENCY. In the event that such written notice of change or cancellation is given, the LOCAL PUBLIC AGENCY may, at its option, terminate this Agreement, and no further compensation shall in such case be made to the CONSUTLANT.

The kinds and amounts of insurance required are as follows:

- A. Policies covering the obligations of the CONSULTANT in accordance with the provisions of the Worker's Compensation laws. This Agreement shall be void and of no effect unless the CONSULTANT procures and maintains such policies until final acceptance of the work.
- B. Comprehensive Policies and Bodily Injury Liability and Property Damage Liability Insurance, including Owner's or Contractor's Protective Coverage and a Save and Hold Harmless Endorsement of the types herein specified, each with Bodily Injury



Limits of Liability of not less than \$100,000.00 for each person, including death at any time resulting therefrom, and not less than \$300,000.00 in any one accident, and not less than \$100,000.00 for all damages arising out of injury to or destruction of property.

- C. Automobile Policies of Bodily Injury and Property Damage Liability Insurance of the types herein specified with bodily injury limits of liability of not less than \$100,000.00 for each person, including death at any time resulting therefrom, and not less than \$300,000.00 in any one accident, and not less than \$100,000.00 for all damages arising out of injury to or destruction of property, including hired and non-owned vehicles.

11. Progress Reports:

The CONSULTANT shall submit a progress report to the LOCAL PUBLIC AGENCY by the tenth (10<sup>th</sup>) day of each month, showing progress to the first of the month. The report shall consist of a progress chart with the initial schedule on which shall be superimposed the current status of the work.

12. Changes in Work:

In the event the LOCAL PUBLIC AGENCY requires a major change in scope, character or complexity of the work after the work has progressed as directed by the LOCAL PUBLIC AGENCY, adjustments in compensation to the CONSULTANT and in time for performance of the work as modified shall be determined by the LOCAL PUBLIC AGENCY, subject to the CONSULTANT'S approval. The CONSULTANT shall not commence the additional work or the change of the scope of the work until a supplemental agreement is executed and the CONSULTANT is authorized in writing by the LOCAL PUBLIC AGENCY to proceed with the work.

13. Delays and Extensions:

The CONSULTANT agrees that no charges or claim for damages shall be made by him for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such period as may be determined by the LOCAL PUBLIC AGENCY, in the exercise of its honest and reasonable judgment, it being

understood, however, that the permitting of the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL PUBLIC AGENCY of any of its rights herein.

14. Abandonment and Termination:

The LOCAL PUBLIC AGENCY reserves the right to terminate or suspend this Agreement upon written notice.

- A. If the LOCAL PUBLIC AGENCY shall abandon the services herein mentioned, the CONSULTANT shall deliver to the LOCAL PUBLIC AGENCY all data, reports, drawings, specifications and estimates completed or partially completed, and these shall become the property of the LOCAL PUBLIC AGENCY. The earned value of the work performed shall be based upon an estimate of the portion of the total services that have been rendered by the CONSULTANT to the date of the abandonment and which estimate shall be made by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment for services to be paid on a lump sum basis, and it shall be based upon an audit for those services to be paid for on a cost basis or a cost plus fixed fee basis. The audit shall be performed by the Indiana Department of Transportation's Division of Accounting and Control in accordance with generally accepted auditing standards and the cost principles contained in the Federal Acquisition Regulations, 48 CFR Part 31. The payment made to the CONSULTANT shall be paid as the final payment in full settlement for its services hereunder.
- B. If, at any time, for any cause whatsoever, the CONSULTANT shall abandon or fail to timely perform any of its duties hereunder, including the preparation and completion of plans and specifications within the specified times hereinbefore specified or within such further extension or extensions of time as may be agreed upon, the LOCAL PUBLIC AGENCY may give written notice that if the CONSULTANT shall not, within twenty (20) calendar days from the date of such notice, have complied with the requirements of this Agreement, then the Agreement is deemed terminated. Upon the mailing or delivery of such notice, or personal delivery thereof to the CONSULTANT, and the failure of the CONSULTANT with said described 20-day period to fully comply with each and all requirements of this Agreement, this Agreement shall terminate and the LOCAL PUBLIC AGENCY may, by any method it deems to be necessary, designate and employ other CONSULTANTS, by agreement or otherwise, to perform and complete the services herein described. When written notice is referred to herein, it shall be deemed given when deposited in the mail addressed to the CONSULTANT at its last known address.

- C. In case the LOCAL PUBLIC AGENCY shall act under the preceding paragraph, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Agreement, shall be delivered within twenty (20) days to LOCAL PUBLIC AGENCY. In the event of the failure by the CONSULTANT to make such delivery upon demand, then in that event the CONSULTANT shall pay to LOCAL PUBLIC AGENCY any damage it may sustain by reason thereof.

15. Non-Discrimination:

- A. Pursuant to I.C. 22-9-1-10, the CONSULTANT and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or age. Breach of this covenant may be regarded as a material breach of this Agreement.
- B. The CONSULTANT in the performance of the work under this Agreement shall comply with the United States Department of Transportation Regulations which follows:

During the performance of this Agreement, the CONSULTANT for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT will comply with the Regulations of the Department of Transportation relative to non-discrimination in federally assisted programs of the Department of Transportation, 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. Non-Discrimination: The CONSULTANT, with regard to the work performed by it after award and prior to completion of the Agreement work, will not discriminate as defined by the regulations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the regulations, including employment practices when the Agreement covers a program set forth in Appendix "B" of the regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Agreement and the regulations relative to non-discrimination.
4. Information and Reports: The CONSULTANT will provide all information and reports required by the regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts and other sources of information, and its facilities as may be determined by the LOCAL PUBLIC AGENCY to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the LOCAL PUBLIC AGENCY, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Non-Compliance: In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this Agreement, the LOCAL PUBLIC AGENCY shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to, (a) withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: The CONSULTANT will include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The CONSULTANT will take such action with respect to any subcontract or procurement as the LOCAL PUBLIC AGENCY may direct as a means of enforcing such provisions, including sanctions for non-compliance. In the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the LOCAL PUBLIC AGENCY to enter into such litigation to protect the interests of the LOCAL PUBLIC AGENCY.

16. Successors and Assignees:

The LOCAL PUBLIC AGENCY, insofar as authorized by law, binds itself and its successors, and the CONSULTANT binds his successors, executors, administrators and assignees to the other party of this Agreement and to the successors, executors, administrators and assignees of such other party as the case may be, insofar as authorized by law, in respect to all covenants of this Agreement.

Except as above set forth, neither the LOCAL PUBLIC AGENCY nor the CONSULTANT shall assign, sublet, or transfer its interests in this Agreement without the consent of the other.

17. Disadvantaged Business Enterprise Program:

A. General:

1. Notice is hereby given to the CONSULTANT or subcontractor that failure to carry out the requirements set forth in 49 CFR Sec. 23.43(a) shall constitute a breach of contract and, after notification, may result in termination of the contract, or such remedy as the LOCAL PUBLIC AGENCY deems appropriate.
2. The referenced section requires the following policy and Disadvantaged Business Enterprise (DBE) obligation to be included in all subsequent agreements between the CONSULTANT and any subcontractor:
  - a. It is the policy of the LOCAL PUBLIC AGENCY that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this contract. Consequently, the DBE requirements of 49 CFR Part 23, apply to this contract.
  - b. The CONSULTANT agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this contract. In this regard, the CONSULTANT shall take all necessary and reasonable steps, in accordance with 49 CFR Part 23, to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts.

The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of federally assisted contracts.

3. As part of the CONSULTANT'S equal opportunity affirmative action program, it is required that the CONSULTANT shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise subcontractors, vendors or suppliers.

B. Definitions:

The following definitions apply to this section:

1. "Disadvantaged Business Enterprise" means a small business concern: (a) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
2. "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
3. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans or women, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.
4. "Certified Disadvantaged Business Enterprise" means the business has completed and filed with the Indiana Department of Transportation a request for certification, and that the business has been reviewed and determined to comply with the guidelines established in 49 CFR Part 23. Businesses which are determined to be eligible will be certified as a Disadvantaged Business Enterprise (DBE).

## C. Subcontracts:

1. If the CONSULTANT intends to subcontract a portion of the work, the CONSULTANT is required to take affirmative actions to seek out and consider DBE's as potential subcontractors prior to any subcontractual commitment.
2. The contacts made with potential DBE subcontractors and the results thereof shall be documented and made available to the LOCAL PUBLIC AGENCY and the Federal Highway Administration (FHWA) when requested.
3. In those cases where the CONSULTANT originally did not intend to subcontract a portion of the work and later circumstances dictate subletting a portion of the contract work, the affirmative action contacts covered under paragraph C. 1. and C. 2. of this section shall be performed.
4. No subletting will be approved until the CONSULTANT demonstrates his compliance with paragraphs C. 1. and C. 2 of this section. The CONSULTANT shall demonstrate his compliance by submitting Form DBE-2 with each request to sublet. The CONSULTANT shall also submit documentation with the DBE-2 evidencing contacts and the results thereof made with potential Disadvantaged Business Enterprise subcontractors for the specific work to be subcontracted.

## D. Affirmative Actions:

The CONSULTANT agrees to establish and conduct a program which will enable Disadvantaged Business Enterprises to be considered fairly as subcontractors and suppliers under this contract. In this connection, the CONSULTANT shall:

1. Designate a liaison officer who will administer the CONSULTANT'S Disadvantaged Business Enterprise program.
2. Ensure that known Disadvantaged Business Enterprises will have an equitable opportunity to compete for subcontracts, so as to facilitate the participation of Disadvantaged Business Enterprises.
3. Maintain records showing: (1) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of Disadvantaged Business Enterprises, (2) awards to Disadvantaged Business Enterprises on the source list, and (3) specific efforts to identify and award contracts to Disadvantaged Business Enterprises.

4. Cooperate with the LOCAL PUBLIC AGENCY in any studies and surveys of the CONSULTANT'S Disadvantaged Business Enterprise procedures and practices that the LOCAL PUBLIC AGENCY may from time to time conduct.
5. Submit periodic reports of subcontracting to known Disadvantaged Business Enterprises with respect to the records referred to in subparagraph (3) above in such form and manner and at such times as the LOCAL PUBLIC AGENCY may prescribe.

E. Leases and Rentals:

1. The CONSULTANT shall notify the Indiana Department of Transportation when purchases or rental of equipment (other than leases for hauling) are made with disadvantaged businesses. The information submitted shall include the name of the business, the dollar amount of the transaction, and the type of purchases made or type of equipment rented.

F. DBE Program:

Unless otherwise specified in this Agreement, the DBE program developed by the LOCAL PUBLIC AGENCY and approved by the Federal Highway Administration applies to this Agreement.

18. Certification for Federal-Aid Contracts:

The CONSULTANT certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit



Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. This form is available through the Indiana Department of Transportation.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1 352, Title 31, U. S. Code.

The CONSULTANT also agrees by signing this Agreement that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

19. Supplements:

This Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement.

CONSULTANT  
RQAW Corporation

LOCAL PUBLIC AGENCY  
Board of Commissioners, Lake County

By: Richard T. O'Connor  
Richard T. O'Connor  
Senior Vice President

By: \_\_\_\_\_  
Rudolph Clay, District 1

By: Gerry J. Scheub  
Gerry J. Scheub, District 2

ATTEST:  
Thomas J. Helbing  
Thomas J. Helbing  
President

By: Frances DuPey  
Frances DuPey, District 3

ATTEST:  
Peggy H. Katona  
Peggy H. Katona  
Auditor  
Approved as to Legality and Form

Mark Thiros  
Mark Thiros  
Attorney for Highway Department

## Order#21 – Agenda #14

In the Matter of L.C. Highway – Agreement with Farrar, Garvey, & Assoc., L.L.C. to provide Design Engineering Services for the Rehabilitation of Lake County Bridge #6, Range Line Road over Stoney Run Ditch in an amount not to exceed \$24,300.00.

Scheub made a motion, seconded by DuPey, to approve the Agreement between the L.C. Highway and Farrar, Garvey, & Assoc., L.L.C. to provide Design Engineering Services for the Rehabilitation of Lake County Bridge #6, Range Line Road over Stoney Run Ditch in an amount not to exceed \$24,300.00. Motion passed 2-0.

**AGREEMENT**

THIS AGREEMENT is made and entered into this 19 day of April, 2006, by and between Lake County, acting by and through the Board of County Commissioners, hereinafter referred to as the "LOCAL PUBLIC AGENCY", and Farrar, Garvey & Associates, LLC, hereinafter referred to as the "CONSULTANT".

**WITNESSETH**

WHEREAS, the LOCAL PUBLIC AGENCY desires to contract for engineering services required to prepare plans, specifications and cost estimates for the project hereinafter described.

WHEREAS, the CONSULTANT has expressed a willingness to furnish the engineering services as set forth in Appendix "A".

NOW, THEREFORE, the parties hereto agree that said CONSULTANT shall provide the services and documents, hereinbefore and hereinafter described, in relation to the following described project or projects:

Rehabilitation of Lake County Bridge No. 6, Range Line Road over Stony Run Ditch, Lake County, Indiana.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

**SECTION I Services by CONSULTANT**

The services to be provided by the CONSULTANT under this Agreement are as set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

**SECTION II Information and Services to be Furnished by LOCAL PUBLIC AGENCY**

The information and services to be furnished by the LOCAL PUBLIC AGENCY are as set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

**SECTION III Notice to Proceed and Schedule**

The CONSULTANT shall begin the work to be performed under this Agreement immediately upon receipt of the written notice to proceed from the LOCAL PUBLIC AGENCY, and shall deliver the work to the LOCAL PUBLIC AGENCY in accordance with the Schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof.

The CONSULTANT shall not begin work prior to the date of the notice to proceed.

**SECTION IV Compensation**

The CONSULTANT shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

The cost principles contained in the Federal Acquisition Regulations, 48 CFR Part 31, shall be adhered to for work under this Agreement.

#### SECTION V General Provisions

1. Work Office

The CONSULTANT shall perform the work under this Agreement at the following office: 8925 North Meridian Street, Indianapolis, Indiana 46260.

The CONSULTANT shall notify the LOCAL PUBLIC AGENCY of any change in its mailing address and/or the location(s) of the office(s) where the work is performed.

2. Employment

During the period of this Agreement, the CONSULTANT shall not engage, on a full or part-time or other basis any LOCAL PUBLIC AGENCY personnel who remain in the employ of the LOCAL PUBLIC AGENCY.

3. Covenant Against Contingent Fees

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty the LOCAL PUBLIC AGENCY shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

4. Subletting and Assignment of Contract

No portion of the work under the Agreement shall be sublet, assigned or otherwise disposed of, except with the written consent of the LOCAL PUBLIC AGENCY. Consent to sublet, assign or otherwise dispose of any portion of the work under this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Agreement. A subcontractor shall not subcontract any portion of its work under this Agreement.

5. Ownership of Documents

All documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc., as instruments of service, are to be the property of the LOCAL PUBLIC AGENCY. During the performance of the services herein provided for, the CONSULTANT shall be responsible for any loss or damage to the documents herein enumerated while they are in his possession, and any such loss or damage shall be restored at his expense. Full access to the work during the progress of the work shall be available to the LOCAL PUBLIC AGENCY.

6. Access to Records

The CONSULTANT and his subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred, and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three years from the date of final payment under the terms of this Agreement for inspection by the LOCAL PUBLIC AGENCY, and copies thereof shall be furnished if requested.

7. Compliance with State and Other Laws

The CONSULTANT specifically agrees that in performance of the services herein enumerated by him or by a subcontractor or anyone acting on behalf of either, that he or they will comply with any and all State, Federal, and Local statutes, ordinances, and regulations and obtain all permits that are applicable to the entry into and the performance of this Agreement.

8. Responsibility for Claims and Liabilities

The CONSULTANT shall be responsible for all damage to life and property due to activities of the CONSULTANT, his subcontractor, agents, or employees in connection with such services, and shall be responsible for all parts of his work, both temporary and permanent. It is expressly understood that the CONSULTANT shall indemnify and hold harmless the LOCAL PUBLIC AGENCY from claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the services of the CONSULTANT under this Agreement, and such indemnity shall not be limited by reason of the enumeration of any insurance coverage hereinafter provided.

9. Status of Claims

The CONSULTANT shall be responsible for keeping the LOCAL PUBLIC AGENCY currently advised as to the status of any claims made for damages against the CONSULTANT resulting from services performed under this Agreement. The CONSULTANT shall send notice of claims related to work under this Agreement to the LOCAL PUBLIC AGENCY.

10. Worker's Compensation

The CONSULTANT shall procure and maintain, until final payment by the LOCAL PUBLIC AGENCY for the services covered by this Agreement, insurance of the kinds and in the amounts hereinafter provided by insurance companies authorized to do such business in the State of Indiana covering all operations under this Agreement, whether performed by him or by his subcontractor. The CONSULTANT will not be given a notice to proceed until the CONSULTANT has furnished a certificate or certificates in a form satisfactory to the LOCAL PUBLIC AGENCY showing that this section has been complied with. During the life of this Agreement, the CONSULTANT shall furnish the LOCAL PUBLIC AGENCY with certificates showing the required insurance coverage is maintained. The certificate or certificates shall provide that the policies shall not be changed or canceled until ten (10) days' written notice has been given to the LOCAL PUBLIC AGENCY. In the event that such written notice of change or cancellation is given, the LOCAL PUBLIC AGENCY may at its option terminate this Agreement, and no further compensation shall in such case be made to the CONSULTANT.

The kinds and amounts of insurance required are as follows:

- A. Policy covering the obligations of the CONSULTANT in accordance with the provisions of the Worker's Compensation Law. This Agreement shall be void and of no effect unless the CONSULTANT procures such policy and maintains it until acceptance of the work.
  - B. Comprehensive Policies of Bodily Injury Liability and Property Damage Liability Insurance, including Owner's or Contractor's Protective Coverage and a Save and Hold Harmless Endorsement of the types herein specified, each with Bodily Injury Limits of Liability of not less than \$100,000 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property.
  - C. Automobile Policies of Bodily Injury and Property Damage Liability Insurance of the types herein specified with bodily injury limits of liability of not less than \$100,00 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property, including hired and non-owned vehicles.
11. Progress Reports

The CONSULTANT shall submit a monthly Progress Report to the LOCAL PUBLIC AGENCY by the tenth of each month, showing progress to the first of the month. The report shall consist of a progress chart with the initial schedule on which shall be superimposed the current status of the work.
  12. Changes in Work

In the event the LOCAL PUBLIC AGENCY requires a major change in scope, character or complexity of the work after the work has progressed as directed by the LOCAL PUBLIC AGENCY, adjustments in compensation to the CONSULTANT and in time for performance of the work as modified shall be determined by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment, and the CONSULTANT shall not commence the additional work or the change of the scope of the work until a supplementary agreement is executed and the CONSULTANT is authorized in writing by the LOCAL PUBLIC AGENCY to proceed with the work.
  13. Delays and Extensions

The CONSULTANT agrees that no charges or claim for damages shall be made by him for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such period as may be determined by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment, it being understood, however, that the permitting of the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL PUBLIC AGENCY of any of its rights herein.
  14. Abandonment and Termination

The LOCAL PUBLIC AGENCY reserves the right to terminate or suspend this Agreement upon written notice.

- A. If the LOCAL PUBLIC AGENCY shall abandon the services herein mentioned, the CONSULTANT shall deliver to the LOCAL PUBLIC AGENCY all data, reports, drawings, specifications and estimates completed or partially completed, and these shall become the property of the LOCAL PUBLIC AGENCY. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the CONSULTANT to the date of the abandonment and which estimate shall be as made by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment for all services to be paid for on a lump sum basis, and shall be based upon an audit for those services to be paid for on a cost basis or a cost plus fixed fee basis. The audit shall be performed by the Indiana Department of Transportation's Division of Accounting and Control in accordance with generally accepted auditing standards and the cost principles contained in the Federal Acquisition Regulations, 48 CFR Subpart 31.2. The payment as made to the CONSULTANT shall be paid as the final payment in full settlement for his services hereunder.
- B. If, at any time, for any cause whatsoever, the CONSULTANT shall abandon or fail to timely perform any of its duties hereunder, including the preparation and completion of plans and specifications within the several times hereinbefore specified or within such further extension or extensions of time as agreed upon, the LOCAL PUBLIC AGENCY may give written notice that if the CONSULTANT shall not, within twenty (20) calendar days from the date of such notice, have complied with the requirements of this Agreement, then the Agreement is deemed terminated. Upon the mailing or delivery of such notice or personal delivery thereof to the CONSULTANT, and the failure of the CONSULTANT within said described 20-day period to fully comply with each and all requirements of this Agreement, this Agreement shall terminate and the LOCAL PUBLIC AGENCY may by any method it deems to be necessary designate and employ other CONSULTANTS, by agreement or otherwise, to perform and complete the services herein described. When written notice is referred to herein, it shall be deemed given when deposited in the mail addressed to the CONSULTANT at its last known address.
- C. In case the LOCAL PUBLIC AGENCY shall act under the last preceding paragraph, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Agreement, shall be delivered within twenty (20) days to the LOCAL PUBLIC AGENCY. In the event of the failure by the CONSULTANT to make such delivery upon demand, then and in that event the CONSULTANT shall pay to the LOCAL PUBLIC AGENCY any damage it may sustain by reason thereof.

15. Non-Discrimination

- A. Pursuant to I.C.22-9-1-10, the CONSULTANT and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of work under this

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Agreement with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, sex, handicap, national origin or age. Breach of this covenant may be regarded as a material breach of the Agreement.

- B. The CONSULTANT in the performance of the work under this Agreement shall comply with the United States Department of Transportation Regulations which follow:

During the performance of this Agreement, the CONSULTANT for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: The CONSULTANT, with regard to the work performed by it after award and prior to completion of the Agreement work, will not discriminate as defined by the regulations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT will not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix "B" of the Regulations.
3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation, made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to non-discrimination.
4. Information and Reports: The CONSULTANT will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, and other sources of information and its facilities as may be determined by the LOCAL PUBLIC AGENCY to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the LOCAL PUBLIC AGENCY, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, the LOCAL PUBLIC AGENCY shall impose such contract sanctions as it may determine to be appropriate, including,

but not limited to, (a) withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: The CONSULTANT will include the provision of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT will take such action with respect to any subcontract or procurement as the LOCAL PUBLIC AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that, in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the LOCAL PUBLIC AGENCY to enter into such litigation to protect the interests of the LOCAL PUBLIC AGENCY.

16. Successors and Assignees

The LOCAL PUBLIC AGENCY, insofar as authorized by law, binds itself and its successors, and the CONSULTANT binds his successors, executors, administrators and assignees, to the other party of this Agreement and to the successors, executors, administrators and assignees of such other party as the case may be, insofar as authorized by law, in respect to all covenants of this Agreement.

Except as above set forth, neither the LOCAL PUBLIC AGENCY nor the CONSULTANT shall assign, sublet or transfer its or his interest in this Agreement without the consent of the other.

17. Disadvantaged Business Enterprise Program

A. General

- 1) Notice is hereby given to the CONSULTANT or subcontractor that failure to carry out the requirements set forth in 49 CFR Sec. 23.43(a) shall constitute a breach of contract and, after notification, may result in termination of the contract or such remedy as the LOCAL PUBLIC AGENCY deems appropriate.
- 2) The referenced section requires the following policy and Disadvantaged Business Enterprise (DBE) obligation to be included in all subsequent agreements between the CONSULTANT and any subcontractor.
  - a. It is the policy of the LOCAL PUBLIC AGENCY that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this contractor. Consequently, the DBE requirements of 49 CFR Part 23, apply to this contract.



- b. The CONSULTANT agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this contract. In this regard, the CONSULTANT shall take all necessary and reasonable steps, in accordance with 49 CFR Part 23, to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The CONSULTANT shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Federal assisted contracts.
- 3) As part of the CONSULTANT'S equal opportunity affirmative action program, it is required that the CONSULTANT take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize Disadvantaged Business Enterprise subcontractors, vendors or suppliers.

B. Definitions

The following definitions apply to this section:

- 1) "Disadvantaged Business Enterprise" means a small business concern: (a) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 2) "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
- 3) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans or women, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

- 4) "Certified Disadvantaged Business Enterprise" means the business has completed and filed with the Indiana Department of Transportation a request for certification, and that the business has been reviewed and determined to comply with the guidelines established in 49 CFR, Part 23. Businesses which are determined to be eligible will be certified as a Disadvantaged Business Enterprise (DBE).

C. Subcontracts

- 1) If the CONSULTANT intends to subcontract a portion of the work, the CONSULTANT is required to take affirmative action to seek out and consider Disadvantaged Business Enterprises as potential subcontractors prior to any subcontractual commitment.
- 2) The contacts made with potential disadvantaged business enterprise subcontractors and the results thereof shall be documented and made available to the LOCAL PUBLIC AGENCY and the FHWA when requested.
- 3) In those cases where the CONSULTANT originally did not intend to subcontract a portion of the work and later circumstances dictate subletting a portion of the contract work, the affirmative action contacts covered under paragraph C.1 and C.2 of this Section shall be performed.
- 4) No subletting will be approved until the CONSULTANT demonstrates his compliance with paragraphs C.1 and C.2 of this Section. The CONSULTANT shall demonstrate his compliance by submitting Form DBE-2 with each request to sublet. The CONSULTANT shall also submit documentation with the DBE-2 evidencing contacts and the results thereof made with potential Disadvantaged Business Enterprise subcontractors for the specific work to be subcontracted.

D. Affirmative Action

The CONSULTANT agrees to establish and conduct a program which will enable Disadvantaged Business Enterprises to be considered fairly as subcontractors and suppliers under this contract. In this connection, the CONSULTANT shall:

- 1) Designate a liaison officer who will administer the CONSULTANT'S Disadvantaged Business Enterprise program.
- 2) Ensure that known Disadvantaged Business Enterprises will have an equitable opportunity to compete for subcontracts, so as to facilitate the participation of Disadvantaged Business Enterprises.
- 3) Maintain records showing: (1) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of Disadvantaged Business Enterprises, (2) awards to Disadvantaged Business Enterprises on the source list, and (3) specific efforts to identify and award contracts to Disadvantaged Business Enterprises.

- 4) Cooperate with the LOCAL PUBLIC AGENCY in any studies and surveys of the CONSULTANT's Disadvantaged Business Enterprise procedures and practices that the LOCAL PUBLIC AGENCY may from time to time conduct.
- 5) Submit periodic reports of subcontracting to known Disadvantaged Business Enterprises with respect to the records referred to in Subparagraph (3) above in such form and manner and at such times as the LOCAL PUBLIC AGENCY may prescribe.

E. Leases and Rentals

The CONSULTANT shall notify the Indiana Department of Transportation when purchases or rental of equipment (other than leases for hauling) are made with disadvantaged businesses. The information submitted shall include the name of the business, the dollar amount of the transaction, and the type of purchase made or type of equipment rented.

F. DBE Program

Unless otherwise specified in this Agreement, the DBE Program developed by the LOCAL PUBLIC AGENCY and approved by the Federal Highway Administration applies to this Agreement.

18. Certification for Federal-Aid Contracts

The CONSULTANT certifies, by signing and submitting this contract, to the best of his or her knowledge and belief, that he or she has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. This form is available through the Indiana Department of Transportation.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code.

The CONSULTANT also agrees by submitting his or her contract that he or she shall require that the language of this certification be included in all lower tier subcontractors which exceed \$100,000, and that such subrecipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

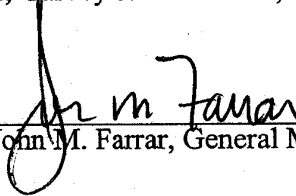
19. Supplements

This Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Agreement.

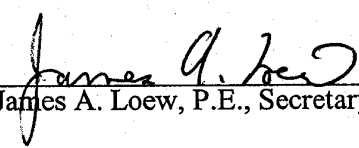
IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement.

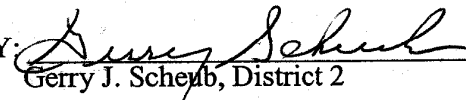
CONSULTANT:  
Farrar, Garvey & Associates, LLC

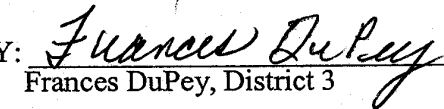
LOCAL PUBLIC AGENCY:  
Board of Lake County

BY:   
John M. Farrar, General Manager

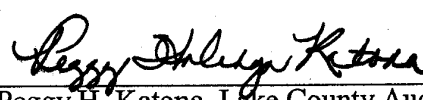
BY: \_\_\_\_\_  
Rudolph Clay, District 1

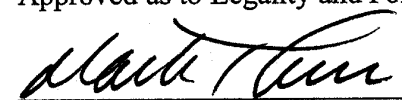
ATTEST:  
BY:   
James A. Loew, P.E., Secretary

BY:   
Gerry J. Scheub, District 2

BY:   
Frances DuPey, District 3

BY: \_\_\_\_\_

ATTEST:  
  
Peggy H. Katona, Lake County Auditor

Approved as to Legality and Form:  
  
Mark Thiros, Attorney

Order#22 – Agenda #15

In the Matter of L.C. Highway – Agreement with Farrar, Garvey, & Assoc., L.L.C. to provide Design Engineering Services for the Rehabilitation of Lake County Bridge #294, Board Street over Cady Marsh Ditch in an amount not to exceed \$23,100.00.

Scheub made a motion, seconded by DuPey, to approve the Agreement between the L.C. Highway and Farrar, Garvey, & Assoc., L.L.C. to provide Design Engineering Services for the Rehabilitation of Lake County Bridge #294, Board Street over Cady Marsh Ditch in an amount not to exceed \$23,100.00. Motion passed 2-0.

**AGREEMENT**

THIS AGREEMENT is made and entered into this 19 day of April, 2006, by and between Lake County, acting by and through the Board of County Commissioners, hereinafter referred to as the "LOCAL PUBLIC AGENCY", and Farrar, Garvey & Associates, LLC, hereinafter referred to as the "CONSULTANT".

**WITNESSETH**

WHEREAS, the LOCAL PUBLIC AGENCY desires to contract for engineering services required to prepare plans, specifications and cost estimates for the project hereinafter described.

WHEREAS, the CONSULTANT has expressed a willingness to furnish the engineering services as set forth in Appendix "A".

NOW, THEREFORE, the parties hereto agree that said CONSULTANT shall provide the services and documents, hereinbefore and hereinafter described, in relation to the following described project or projects:

Rehabilitation Lake County Bridge No. 294, Broad Street over Cady Marsh Ditch,  
Lake County, Indiana.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

**SECTION I Services by CONSULTANT**

The services to be provided by the CONSULTANT under this Agreement are as set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

**SECTION II Information and Services to be Furnished by LOCAL PUBLIC AGENCY**

The information and services to be furnished by the LOCAL PUBLIC AGENCY are as set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

**SECTION III Notice to Proceed and Schedule**

The CONSULTANT shall begin the work to be performed under this Agreement immediately upon receipt of the written notice to proceed from the LOCAL PUBLIC AGENCY, and shall deliver the work to the LOCAL PUBLIC AGENCY in accordance with the Schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof.

The CONSULTANT shall not begin work prior to the date of the notice to proceed.

**SECTION IV Compensation**

The CONSULTANT shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

The cost principles contained in the Federal Acquisition Regulations, 48 CFR Part 31, shall be adhered to for work under this Agreement.

#### SECTION V General Provisions

1. Work Office

The CONSULTANT shall perform the work under this Agreement at the following office: 8925 North Meridian Street, Indianapolis, Indiana 46260.

The CONSULTANT shall notify the LOCAL PUBLIC AGENCY of any change in its mailing address and/or the location(s) of the office(s) where the work is performed.

2. Employment

During the period of this Agreement, the CONSULTANT shall not engage, on a full or part-time or other basis any LOCAL PUBLIC AGENCY personnel who remain in the employ of the LOCAL PUBLIC AGENCY.

3. Covenant Against Contingent Fees

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty the LOCAL PUBLIC AGENCY shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

4. Subletting and Assignment of Contract

No portion of the work under the Agreement shall be sublet, assigned or otherwise disposed of, except with the written consent of the LOCAL PUBLIC AGENCY. Consent to sublet, assign or otherwise dispose of any portion of the work under this Agreement shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Agreement. A subcontractor shall not subcontract any portion of its work under this Agreement.

5. Ownership of Documents

All documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc., as instruments of service, are to be the property of the LOCAL PUBLIC AGENCY. During the performance of the services herein provided for, the CONSULTANT shall be responsible for any loss or damage to the documents herein enumerated while they are in his possession, and any such loss or damage shall be restored at his expense. Full access to the work during the progress of the work shall be available to the LOCAL PUBLIC AGENCY.

6. Access to Records

The CONSULTANT and his subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred, and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three years from the date of final payment under the terms of this Agreement for inspection by the LOCAL PUBLIC AGENCY, and copies thereof shall be furnished if requested.

7. Compliance with State and Other Laws

The CONSULTANT specifically agrees that in performance of the services herein enumerated by him or by a subcontractor or anyone acting on behalf of either, that he or they will comply with any and all State, Federal, and Local statutes, ordinances, and regulations and obtain all permits that are applicable to the entry into and the performance of this Agreement.

8. Responsibility for Claims and Liabilities

The CONSULTANT shall be responsible for all damage to life and property due to activities of the CONSULTANT, his subcontractor, agents, or employees in connection with such services, and shall be responsible for all parts of his work, both temporary and permanent. It is expressly understood that the CONSULTANT shall indemnify and hold harmless the LOCAL PUBLIC AGENCY from claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the services of the CONSULTANT under this Agreement, and such indemnity shall not be limited by reason of the enumeration of any insurance coverage hereinafter provided.

9. Status of Claims

The CONSULTANT shall be responsible for keeping the LOCAL PUBLIC AGENCY currently advised as to the status of any claims made for damages against the CONSULTANT resulting from services performed under this Agreement. The CONSULTANT shall send notice of claims related to work under this Agreement to the LOCAL PUBLIC AGENCY.

10. Worker's Compensation

The CONSULTANT shall procure and maintain, until final payment by the LOCAL PUBLIC AGENCY for the services covered by this Agreement, insurance of the kinds and in the amounts hereinafter provided by insurance companies authorized to do such business in the State of Indiana covering all operations under this Agreement, whether performed by him or by his subcontractor. The CONSULTANT will not be given a notice to proceed until the CONSULTANT has furnished a certificate or certificates in a form satisfactory to the LOCAL PUBLIC AGENCY showing that this section has been complied with. During the life of this Agreement, the CONSULTANT shall furnish the LOCAL PUBLIC AGENCY with certificates showing the required insurance coverage is maintained. The certificate or certificates shall provide that the policies shall not be changed or canceled until ten (10) days' written notice has been given to the LOCAL PUBLIC AGENCY. In the event that such written notice of change or cancellation is given, the LOCAL PUBLIC AGENCY may at its option terminate this Agreement, and no further compensation shall in such case be made to the CONSULTANT.

The kinds and amounts of insurance required are as follows:

- A. Policy covering the obligations of the CONSULTANT in accordance with the provisions of the Worker's Compensation Law. This Agreement shall be void and of no effect unless the CONSULTANT procures such policy and maintains it until acceptance of the work.
  - B. Comprehensive Policies of Bodily Injury Liability and Property Damage Liability Insurance, including Owner's or Contractor's Protective Coverage and a Save and Hold Harmless Endorsement of the types herein specified, each with Bodily Injury Limits of Liability of not less than \$100,000 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property.
  - C. Automobile Policies of Bodily Injury and Property Damage Liability Insurance of the types herein specified with bodily injury limits of liability of not less than \$100,00 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property, including hired and non-owned vehicles.
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The CONSULTANT shall submit a monthly Progress Report to the LOCAL PUBLIC AGENCY by the tenth of each month, showing progress to the first of the month. The report shall consist of a progress chart with the initial schedule on which shall be superimposed the current status of the work.
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In the event the LOCAL PUBLIC AGENCY requires a major change in scope, character or complexity of the work after the work has progressed as directed by the LOCAL PUBLIC AGENCY, adjustments in compensation to the CONSULTANT and in time for performance of the work as modified shall be determined by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment, and the CONSULTANT shall not commence the additional work or the change of the scope of the work until a supplementary agreement is executed and the CONSULTANT is authorized in writing by the LOCAL PUBLIC AGENCY to proceed with the work.
  13. Delays and Extensions

The CONSULTANT agrees that no charges or claim for damages shall be made by him for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such period as may be determined by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment, it being understood, however, that the permitting of the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL PUBLIC AGENCY of any of its rights herein.
  14. Abandonment and Termination



The LOCAL PUBLIC AGENCY reserves the right to terminate or suspend this Agreement upon written notice.

- A. If the LOCAL PUBLIC AGENCY shall abandon the services herein mentioned, the CONSULTANT shall deliver to the LOCAL PUBLIC AGENCY all data, reports, drawings, specifications and estimates completed or partially completed, and these shall become the property of the LOCAL PUBLIC AGENCY. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the CONSULTANT to the date of the abandonment and which estimate shall be as made by the LOCAL PUBLIC AGENCY in the exercise of its honest and reasonable judgment for all services to be paid for on a lump sum basis, and shall be based upon an audit for those services to be paid for on a cost basis or a cost plus fixed fee basis. The audit shall be performed by the Indiana Department of Transportation's Division of Accounting and Control in accordance with generally accepted auditing standards and the cost principles contained in the Federal Acquisition Regulations, 48 CFR Subpart 31.2. The payment as made to the CONSULTANT shall be paid as the final payment in full settlement for his services hereunder.
- B. If, at any time, for any cause whatsoever, the CONSULTANT shall abandon or fail to timely perform any of its duties hereunder, including the preparation and completion of plans and specifications within the several times hereinbefore specified or within such further extension or extensions of time as agreed upon, the LOCAL PUBLIC AGENCY may give written notice that if the CONSULTANT shall not, within twenty (20) calendar days from the date of such notice, have complied with the requirements of this Agreement, then the Agreement is deemed terminated. Upon the mailing or delivery of such notice or personal delivery thereof to the CONSULTANT, and the failure of the CONSULTANT within said described 20-day period to fully comply with each and all requirements of this Agreement, this Agreement shall terminate and the LOCAL PUBLIC AGENCY may by any method it deems to be necessary designate and employ other CONSULTANTS, by agreement or otherwise, to perform and complete the services herein described. When written notice is referred to herein, it shall be deemed given when deposited in the mail addressed to the CONSULTANT at its last known address.
- C. In case the LOCAL PUBLIC AGENCY shall act under the last preceding paragraph, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Agreement, shall be delivered within twenty (20) days to the LOCAL PUBLIC AGENCY. In the event of the failure by the CONSULTANT to make such delivery upon demand, then and in that event the CONSULTANT shall pay to the LOCAL PUBLIC AGENCY any damage it may sustain by reason thereof.

15. Non-Discrimination

- A. Pursuant to I.C.22-9-1-10, the CONSULTANT and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of work under this

Agreement with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, sex, handicap, national origin or age. Breach of this covenant may be regarded as a material breach of the Agreement.

- B. The CONSULTANT in the performance of the work under this Agreement shall comply with the United States Department of Transportation Regulations which follow:

During the performance of this Agreement, the CONSULTANT for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: The CONSULTANT, with regard to the work performed by it after award and prior to completion of the Agreement work, will not discriminate as defined by the regulations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT will not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix "B" of the Regulations.
3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation, made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to non-discrimination.
4. Information and Reports: The CONSULTANT will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, and other sources of information and its facilities as may be determined by the LOCAL PUBLIC AGENCY to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the LOCAL PUBLIC AGENCY, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, the LOCAL PUBLIC AGENCY shall impose such contract sanctions as it may determine to be appropriate, including,

but not limited to, (a) withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: The CONSULTANT will include the provision of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT will take such action with respect to any subcontract or procurement as the LOCAL PUBLIC AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that, in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the LOCAL PUBLIC AGENCY to enter into such litigation to protect the interests of the LOCAL PUBLIC AGENCY.

16. Successors and Assignees

The LOCAL PUBLIC AGENCY, insofar as authorized by law, binds itself and its successors, and the CONSULTANT binds his successors, executors, administrators and assignees, to the other party of this Agreement and to the successors, executors, administrators and assignees of such other party as the case may be, insofar as authorized by law, in respect to all covenants of this Agreement.

Except as above set forth, neither the LOCAL PUBLIC AGENCY nor the CONSULTANT shall assign, sublet or transfer its or his interest in this Agreement without the consent of the other.

17. Disadvantaged Business Enterprise Program

A. General

- 1) Notice is hereby given to the CONSULTANT or subcontractor that failure to carry out the requirements set forth in 49 CFR Sec. 23.43(a) shall constitute a breach of contract and, after notification, may result in termination of the contract or such remedy as the LOCAL PUBLIC AGENCY deems appropriate.
- 2) The referenced section requires the following policy and Disadvantaged Business Enterprise (DBE) obligation to be included in all subsequent agreements between the CONSULTANT and any subcontractor.
  - a. It is the policy of the LOCAL PUBLIC AGENCY that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this contractor. Consequently, the DBE requirements of 49 CFR Part 23, apply to this contract.

- b. The CONSULTANT agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this contract. In this regard, the CONSULTANT shall take all necessary and reasonable steps, in accordance with 49 CFR Part 23, to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The CONSULTANT shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Federal assisted contracts.
- 3) As part of the CONSULTANT'S equal opportunity affirmative action program, it is required that the CONSULTANT take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize Disadvantaged Business Enterprise subcontractors, vendors or suppliers.

B. Definitions

The following definitions apply to this section:

- 1) "Disadvantaged Business Enterprise" means a small business concern: (a) which is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 2) "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
- 3) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans or women, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

- 4) "Certified Disadvantaged Business Enterprise" means the business has completed and filed with the Indiana Department of Transportation a request for certification, and that the business has been reviewed and determined to comply with the guidelines established in 49 CFR, Part 23. Businesses which are determined to be eligible will be certified as a Disadvantaged Business Enterprise (DBE).

C. Subcontracts

- 1) If the CONSULTANT intends to subcontract a portion of the work, the CONSULTANT is required to take affirmative action to seek out and consider Disadvantaged Business Enterprises as potential subcontractors prior to any subcontractual commitment.
- 2) The contacts made with potential disadvantaged business enterprise subcontractors and the results thereof shall be documented and made available to the LOCAL PUBLIC AGENCY and the FHWA when requested.
- 3) In those cases where the CONSULTANT originally did not intend to subcontract a portion of the work and later circumstances dictate subletting a portion of the contract work, the affirmative action contacts covered under paragraph C.1 and C.2 of this Section shall be performed.
- 4) No subletting will be approved until the CONSULTANT demonstrates his compliance with paragraphs C.1 and C.2 of this Section. The CONSULTANT shall demonstrate his compliance by submitting Form DBE-2 with each request to sublet. The CONSULTANT shall also submit documentation with the DBE-2 evidencing contacts and the results thereof made with potential Disadvantaged Business Enterprise subcontractors for the specific work to be subcontracted.

D. Affirmative Action

The CONSULTANT agrees to establish and conduct a program which will enable Disadvantaged Business Enterprises to be considered fairly as subcontractors and suppliers under this contract. In this connection, the CONSULTANT shall:

- 1) Designate a liaison officer who will administer the CONSULTANT'S Disadvantaged Business Enterprise program.
- 2) Ensure that known Disadvantaged Business Enterprises will have an equitable opportunity to compete for subcontracts, so as to facilitate the participation of Disadvantaged Business Enterprises.
- 3) Maintain records showing: (1) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of Disadvantaged Business Enterprises, (2) awards to Disadvantaged Business Enterprises on the source list, and (3) specific efforts to identify and award contracts to Disadvantaged Business Enterprises.

- 4) Cooperate with the LOCAL PUBLIC AGENCY in any studies and surveys of the CONSULTANT's Disadvantaged Business Enterprise procedures and practices that the LOCAL PUBLIC AGENCY may from time to time conduct.
- 5) Submit periodic reports of subcontracting to known Disadvantaged Business Enterprises with respect to the records referred to in Subparagraph (3) above in such form and manner and at such times as the LOCAL PUBLIC AGENCY may prescribe.

E. Leases and Rentals

The CONSULTANT shall notify the Indiana Department of Transportation when purchases or rental of equipment (other than leases for hauling) are made with disadvantaged businesses. The information submitted shall include the name of the business, the dollar amount of the transaction, and the type of purchase made or type of equipment rented.

F. DBE Program

Unless otherwise specified in this Agreement, the DBE Program developed by the LOCAL PUBLIC AGENCY and approved by the Federal Highway Administration applies to this Agreement.

18. Certification for Federal-Aid Contracts

The CONSULTANT certifies, by signing and submitting this contract, to the best of his or her knowledge and belief, that he or she has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. This form is available through the Indiana Department of Transportation.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code.

The CONSULTANT also agrees by submitting his or her contract that he or she shall require that the language of this certification be included in all lower tier subcontractors which exceed \$100,000, and that such subrecipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

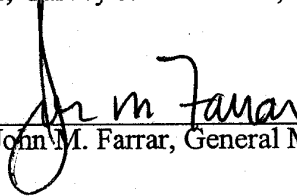
19. Supplements

This Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Agreement.

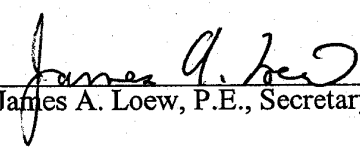
IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement.

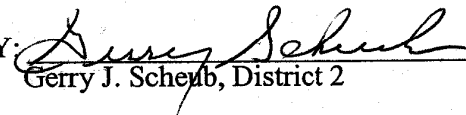
CONSULTANT:  
Farrar, Garvey & Associates, LLC

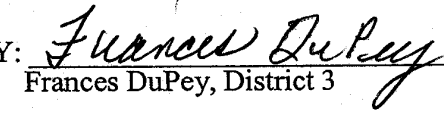
LOCAL PUBLIC AGENCY:  
Board of Lake County

BY:   
John M. Farrar, General Manager

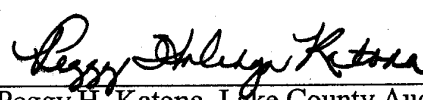
BY: \_\_\_\_\_  
Rudolph Clay, District 1

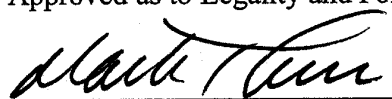
ATTEST:  
BY:   
James A. Loew, P.E., Secretary

BY:   
Gerry J. Scheub, District 2

BY:   
Frances DuPey, District 3

BY: \_\_\_\_\_

ATTEST:  
  
Peggy H. Katona, Lake County Auditor

Approved as to Legality and Form:  
  
Mark Thiros, Attorney

## Order#23 – Agenda #16

In the Matter of L.C. Highway – Offer from Great Lakes Peterbilt GMC Truck Sales to provide the L.C. Highway Department with one (1) 2007 Peterbilt Model 335 Tandem Axle Dump Truck in the amount of \$149,542.00 which is the same rate as the bid awarded to them on December 14, 2005 for the 2006 model.

Scheub made a motion, seconded by DuPey, to approve the L.C. Highway's Offer from Great Lakes Peterbilt GMC Truck Sales to provide the L.C. Highway Department with one (1) 2007 Peterbilt Model 335 Tandem Axle Dump Truck in the amount of \$149,542.00 which is the same rate as the bid awarded to them on December 14, 2005 for the 2006 model. Motion passed 2-0

## Order#24 – Agenda #17

In the Matter of L.C. Highway – Master Equipment Lease – Purchase Agreement with National City Commercial Capital Corporation for one John Deed 644J-4WH Wheel Loader in the amount of \$149,800.00, One Tandem Axle Truck, Salt Spreader and Plow in the amount of \$149,542.00, and One Grader in the amount of approximately \$200,000.00.

Scheub made a motion, seconded by DuPey, to approve the Master Equipment Lease – Purchase Agreement between the L.C. Highway and National City Commercial Capital Corporation for one John Deed 644J-4WH Wheel Loader in the amount of \$149,800.00, One Tandem Axle Truck, Salt Spreader and Plow in the amount of \$149,542.00, and One Grader in the amount of approximately \$200,000.00. Motion passed 2-0.

### MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT

Dated as of April 19, 2006

This Master Equipment Lease-Purchase Agreement (this "*Master Lease*") is made and entered into by and between National City Commercial Capital Corporation ("*Lessor*") and the Lessee identified below ("*Lessee*").

Lessee: Lake County

#### 1. LEASE OF EQUIPMENT.

Subject to the terms and conditions of this Master Lease, Lessor agrees to sell, transfer and lease to Lessee, and Lessee agrees to acquire, purchase and lease from Lessor, all Equipment described in each Schedule signed from time to time by Lessee and Lessor. Each Schedule signed and delivered by Lessor and Lessee pursuant to this Master Lease shall constitute a separate and independent lease and installment purchase of the Equipment therein described. This Master Lease is not a commitment by Lessor or Lessee to enter into any Lease not currently in existence, and nothing in this Master Lease shall be construed to impose any obligation upon Lessor or Lessee to enter into any proposed Lease, it being understood that whether Lessor or Lessee enter into any proposed Lease shall be a decision solely within their respective discretion.

#### 2. CERTAIN DEFINITIONS.

All terms defined in the Lease are equally applicable to both the singular and plural form of such terms. (a) "*Lease*" means each Schedule and the terms and conditions of this Master Lease incorporated therein. (b) "*Lien*" means any security interest, lien, mortgage, pledge, encumbrance, judgment, execution, attachment, warrant, writ, levy, other judicial process or claim of any nature whatsoever by or of any person. (c) "*Equipment*" means the property described in each Schedule, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto. (d) "*Escrow Agreement*" means the Escrow Agreement relating to a Schedule, dated the Commencement Date under such Schedule and substantially in the form attached to this Master Lease, among Lessor, Lessee and the escrow agent therein identified, with respect to the Escrow Fund established and to be administered thereunder. (e) "*Escrow Fund*" means the fund of that name established pursuant to an Escrow Agreement. (f) "*Schedule*" means each Lease Schedule (substantially in the form attached to this Master Lease) signed and delivered by Lessee and Lessor, together with all addenda, riders, attachments, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented.

#### 3. LEASE TERM.

The term of each Lease ("*Lease Term*") commences on, and interest accrues from, the date identified in the related Schedule as the Commencement Date and, unless earlier terminated as expressly provided in the Lease, continues until Lessee's payment and performance in full of all of Lessee's obligations under such Lease.

#### 4. RENT PAYMENTS.

4.1. For each Lease, Lessee agrees to pay to Lessor the rent payments ("*Rent Payments*") in the amounts and on the dates set forth in the Schedule A-1 attached to the Schedule (a "*Payment Schedule*"). A portion of each



Rent Payment is paid as and represents the payment of interest as set forth in the applicable Payment Schedule. Rent Payments under each Lease are payable out of the general and other funds of Lessee that are legally available therefor ("*Legally Available Funds*") in U.S. dollars, without notice or demand, at the office of Lessor identified below (or such other place as Lessor may designate from time to time in writing).

4.2. EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 6 HEREOF, LESSEE'S OBLIGATION TO PAY RENT PAYMENTS UNDER EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND SHALL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER, INCLUDING (WITHOUT LIMITATION) BY REASON OF EQUIPMENT FAILURE, DISPUTES WITH THE VENDOR(S) OR MANUFACTURER(S) OF THE EQUIPMENT OR LESSOR, ACCIDENT OR ANY UNFORESEEN CIRCUMSTANCES.

**4.3. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rent Payments under each Lease shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee, nor shall anything contained in any Lease constitute a pledge of the full faith and credit or taxing power of Lessee.**

4.4. If Lessor receives any Rent Payment from Lessee after its due date, Lessee shall pay Lessor on demand from Legally Available Funds as a late charge five percent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.

5. ESCROW AGREEMENT; EQUIPMENT DELIVERY AND ACCEPTANCE; FUNDING CONDITIONS.

5.1. In order to provide financing to pay the costs to acquire and install the Equipment ("*Purchase Price*") as described in a Schedule, Lessor and Lessee hereby agree to execute and deliver an Escrow Agreement relating to such Schedule on the date on which the Funding Conditions for such Schedule are satisfied as provided in Section 5.2. If Lessee signs and delivers a Schedule and an Escrow Agreement and if all Funding Conditions have been satisfied in full, then Lessor will deposit or cause to be deposited into an Escrow Fund under the related Escrow Agreement an amount (which may include estimated investment earnings thereon) equal to the Purchase Price for the Equipment to be financed under the related Schedule.

5.2. Lessor shall have no obligation to deposit any Purchase Price into an Escrow Fund under the related Schedule unless all reasonable conditions established by Lessor ("*Funding Conditions*") have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered to Lessor the Schedule, its related Payment Schedule and the related Escrow Agreement; (b) no Event of Default or Non-Appropriation Event shall have occurred and be continuing under any Lease; (c) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (d) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (e) all representations of Lessee in the Lease remain true, accurate and complete; (f) the amount (if any) that Lessor may require in advance that Lessee apply to the payment of Equipment costs; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage or self-insurance required by the Lease; (2) an opinion of Lessee's counsel; (3) Uniform Commercial Code (UCC) financing statements with respect to the Equipment; (4) real property waivers as Lessor may deem necessary; (5) copies of resolutions by Lessee's governing body, duly authorizing the Lease and the Escrow Agreement and incumbency certificates for the person(s) who will sign the Lease and the Escrow Agreement; (6) such documents and certificates as Lessor may request relating to federal tax-exemption of interest payable under the Lease, including (without limitation) IRS Form 8038-G or 8038-GC and evidence of the adoption of a reimbursement resolution or other official action in the

event that Lessee is to be reimbursed for expenditures that it has paid more than sixty days prior to the date on which the Funding Conditions are satisfied; and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

5.3. Lessee shall, at its sole expense, arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("*Location*") by Equipment suppliers ("*Suppliers*") selected by Lessee. Lessee shall accept Equipment for purposes of the related Lease as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor a Certificate of Acceptance in the form and manner required by the applicable Escrow Agreement.

5.4. If a Non-Appropriation Event or an Event of Default occurs prior to Lessee's acceptance of all the Equipment under the related Schedule, the amount then on deposit in the Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in whole on the first business day of the month next succeeding the occurrence of either such Event plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 5.4 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds and other moneys available for such purpose as a result of the exercise by Lessor of its rights and remedies under the related Schedule. Any funds on deposit in the Escrow Fund on the prepayment date described in this Section 5.4 in excess of the unpaid principal component of the Rent Payments to be prepaid plus accrued interest thereon to the prepayment date shall be paid promptly to Lessee.

5.5. To the extent that Lessee has not accepted items of Equipment before the eighteen-month anniversary of the Commencement Date identified on the related Schedule, the amount then on deposit in the related Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in part, in inverse order of Rent Payments, on the first business day of the next month plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 5.5 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds. Notwithstanding any such partial prepayment, the related Schedule shall remain in full force and effect with respect to the portion of the Equipment accepted by Lessee during such eighteen-month period, and the portion of the principal component of Rent Payments remaining unpaid after such prepayment plus accrued interest thereon shall remain payable in accordance with the terms of the related Schedule. Upon Lessor's request, Lessee shall execute an amendment to the related Payment Schedule that reflects the change to the Rent Payments as a result of such partial prepayment.

#### 6. TERMINATION UPON NON-APPROPRIATION EVENT.

6.1. For each Lease, Lessee represents and warrants that (a) it has appropriated and budgeted Legally Available Funds to make all Rent Payments required pursuant to such Lease for the remainder of the fiscal year in which the Lease Term commences; (b) it currently intends to make Rent Payments for the full Lease Term as scheduled on the applicable Payment Schedule so long as funds are appropriated for each succeeding fiscal year by its governing body; and (c) during the 10 fiscal years prior to the date of the applicable Lease, its governing body has not failed (for whatever reason) to appropriate amounts sufficient to pay its obligations that are subject to annual appropriation. Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can and will lawfully be appropriated and made available therefor.

6.2. If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments and other amounts to be paid under a Lease in the next succeeding fiscal year, then a "*Non-Appropriation Event*" shall have occurred. If a Non-Appropriation Event occurs, then: (a) Lessee shall give Lessor written notice at least 30 days prior to the end of the then current fiscal year of such Non-Appropriation Event and provide written evidence of such failure by Lessee's governing body; (b) on the Return Date, Lessee shall return to Lessor all, but

not less than all, of the Equipment covered by the affected Lease, at Lessee's sole expense, in accordance with Section 21 hereof; and (c) the affected Lease shall terminate on the Return Date without penalty or expense to Lessee, *provided*, that Lessee shall pay all Rent Payments and other amounts payable under the affected Lease for which funds shall have been appropriated, and *provided further*, that Lessee shall pay month-to-month rent at the rate set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment under this Section 6.2. "*Return Date*" means the last day of the fiscal year for which appropriations were made for the Rent Payments due under a Lease.

7. NO WARRANTY BY LESSOR.

**LESSEE ACQUIRES AND LEASES THE EQUIPMENT UNDER EACH LEASE "AS IS." LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT UNDER ANY LEASE. LESSOR DOES NOT REPRESENT THE MANUFACTURER, SUPPLIER, OWNER OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT UNDER ANY LEASE. NEITHER THE MANUFACTURER, SUPPLIER OR DEALER NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE MANUFACTURER, SUPPLIER OR DEALER IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY.** For and during the Lease Term under each Lease, Lessor assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased by Lessor in accordance with Lessee's specifications from Suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or Supplier's product warranties or guaranties, (d) no manufacturer or Supplier or any representative of said parties is an agent of Lessor and (e) any warranty, representation, guaranty or agreement made by any manufacturer or Supplier or any representative of said parties shall not be binding upon Lessor.

8. TITLE; SECURITY INTEREST.

8.1. Upon Lessee's acceptance of any Equipment under a Lease and in accordance with the related Escrow Agreement, title to such Equipment shall vest in Lessee, subject to Lessor's security interest therein and all of Lessor's other rights under such Lease including, without limitation, Sections 6, 20 and 21 hereof.

8.2. As collateral security for Lessee's obligations to pay all Rent Payments and all other amounts due and payable under each Lease and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due or existing or hereafter arising) of Lessee under such Lease, Lessee hereby grants to Lessor a first priority, exclusive security interest in any and all of the Equipment (now existing or hereafter acquired) under each Lease, moneys and investments held from time to time the Escrow Fund under each Escrow Agreement and any and all proceeds of any of the foregoing. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto and certificates of title or certificates of origin (or applications thereof) noting Lessor's interest thereon.

## 9. PERSONAL PROPERTY.

All Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon.

## 10. MAINTENANCE AND OPERATION.

Lessee shall, at its sole expense: (a) repair and maintain all Equipment in good condition and working order, in accordance with manufacturer's instructions, and supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; (b) use and operate all Equipment solely for the purpose of performing one or more governmental functions of Lessee and in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements; and (c) comply with all laws and regulations relating to the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement by a party reasonably satisfactory to Lessor. No maintenance or other service for any Equipment will be provided by Lessor. Lessee will not make any alterations, additions or improvements ("*Improvements*") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of such Equipment, but any such Improvements not removed prior to the termination of the applicable Lease shall automatically become part of the Equipment.

## 11. LOCATION; INSPECTION.

Equipment will not be removed from, or if Equipment is rolling stock its permanent base will not be changed from, the Location without Lessor's prior written consent which will not be unreasonably withheld. Upon reasonable notice to Lessee, Lessor may enter the Location or elsewhere during normal business hours to inspect the Equipment.

## 12. LIENS, SUBLEASES AND TAXES.

12.1. Lessee shall keep all Equipment free and clear of all Liens except those Liens created under each Lease. Lessee shall not sublet or lend any Equipment or permit it to be used by anyone other than Lessee or Lessee's employees.

12.2. Lessee shall pay when due all Taxes that may now or hereafter be imposed upon: any Equipment or its ownership, leasing, rental, sale, purchase, possession or use; any Lease or Escrow Agreement; any Rent Payments or any other payments due under any Lease; or any Escrow Fund. If Lessee fails to pay such Taxes when due, Lessor shall have the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, then Lessee shall, upon demand, immediately reimburse Lessor therefor. "*Taxes*" means present and future taxes, levies, duties, assessments or other governmental charges that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (a) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes and (b) interest, penalties or fines on any of the foregoing.

## 13. RISK OF LOSS.

13.1. Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part from any reason whatsoever ("*Casualty Loss*"). No Casualty Loss to any Equipment shall relieve Lessee from the

obligation to make any Rent Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 13.

13.2. If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

13.3. If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("*Lost Equipment*"), then Lessee shall either: (a) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens) and deliver to Lessor a purchase order, bill of sale or other evidence of sale to Lessee covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment under the applicable Lease, or (b) on the next scheduled Rent Payment due date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rent Payment due on such date, plus (ii) an amount equal to the applicable Termination Value set forth in the Payment Schedule to the applicable Lease. If Lessee is making such payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Termination Value to be paid by Lessee with respect to the Lost Equipment.

13.4. Lessee shall bear the risk of loss for, shall pay directly and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

#### 14. INSURANCE.

14.1. (a) Lessee at its sole expense shall at all times keep all Equipment insured against all risks of loss or damage from every cause whatsoever (including collision in the case of vehicles) for an amount not less than the Termination Value of the Equipment under each Lease. Lessor shall be named as loss payee with respect to all insurance covering damage to or loss of any Equipment, and the proceeds of any such insurance shall be payable to Lessor as loss payee to be applied as provided in Section 13.3. (b) The Total Amount Financed as set forth on the applicable Payment Schedule does not include the payment of any premium for any liability insurance coverage for bodily injury and/or property damage caused to others and no such insurance will be purchased by Lessor. (c) Lessee at its sole expense shall at all times carry public liability and property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Lessor shall be named as additional insured with respect to all such public liability and property damage insurance, and the proceeds of any such insurance shall be payable first to Lessor as additional insured to the extent of its liability and then to Lessee.

14.2. All insurers shall be reasonably satisfactory to Lessor. Lessee shall promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof. Each insurance policy will require that the insurer give Lessor at least 30 days prior written notice of any cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

14.3. If Lessee is self-insured under an actuarially sound self-insurance program that is acceptable to Lessor with respect to equipment such as the Equipment under a Lease, Lessee shall maintain during the Lease Term of such Lease such actuarially sound self-insurance program and shall provide evidence thereof in form and substance satisfactory to Lessor.

15. PURCHASE OPTION.

Upon thirty (30) days' prior written notice by Lessee to Lessor, and so long as there is no Event of Default then existing, Lessee shall have the option to purchase all, but not less than all, of the Equipment subject to a Lease on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) plus the Termination Value set forth on the Payment Schedule to the applicable Lease for such date. Upon satisfaction by Lessee of such purchase conditions, Lessor shall release its Lien on such Equipment and Lessee shall retain its title to such Equipment "AS-IS, WHERE-IS," without representation or warranty by Lessor, express or implied, except for a representation that such Equipment is free and clear of any Liens created by Lessor.

16. LESSEE'S REPRESENTATIONS AND WARRANTIES.

With respect to each Lease, the Equipment subject thereto and the related Escrow Agreement, Lessee hereby represents and warrants to Lessor that:

(a) Lessee has full power, authority and legal right to execute and deliver the Lease and the Escrow Agreement and to perform its obligations under the Lease and the Escrow Agreement, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;

(b) the Lease and the Escrow Agreement have each been duly authorized, executed and delivered by Lessee and each constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with their respective terms;

(c) the Lease and the Escrow Agreement are each authorized under, and the authorization, execution and delivery of the Lease and the Escrow Agreement comply with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders;

(d) the execution, delivery and performance by Lessee of its obligations under the Lease and the Escrow Agreement will not result in a breach or violation of, nor constitute a default under, any agreement, lease or other instrument to which Lessee is a party or by which Lessee's properties may be bound or affected;

(e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature that may have a material adverse effect on Lessee's ability to perform its obligations under the Lease and the Escrow Agreement; and

(f) Lessee is a state, or a political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986 (the "Code") and will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as such.

## 17. TAX COVENANTS.

Lessee hereby covenants and agrees that:

(a) The parties anticipate that Lessor can exclude the interest component of the Rent Payments under each Lease from federal gross income. Lessee covenants and agrees that it will (i) complete and timely file an information reporting return with the Internal Revenue Service ("IRS") in accordance with Section 149(e) of the Code; (ii) not permit the Equipment to be directly or indirectly used for a private business use within the meaning of Section 141 of the Code including, without limitation, use by private persons or entities pursuant to contractual arrangements which do not satisfy IRS guidelines for permitted management contracts, as the same may be amended from time to time; (iii) invest and reinvest moneys on deposit in the Escrow Fund related to each Lease from time to time in a manner that will not cause such Lease to be classified as an "arbitrage bond" within the meaning of Section 148(a) of the Code; (iv) rebate an amount equal to excess earnings in any Escrow Fund to the federal government if required by, and in accordance with, Section 148(f) of the Code and make the determinations and maintain the records required by the Code; and (v) comply with all provisions and regulations applicable to establishing and maintaining the excludability of the interest component of the Rent Payments under each Lease from federal gross income pursuant to Section 103 of the Code.

(b) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not unreasonably withhold, that Lessor may not exclude the interest component of any Rent Payment under a Lease from federal gross income because Lessee breached a covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rent Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rent Payments under such Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after-tax yield on the transaction evidenced by this Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event, it shall pay additional rent to Lessor on each succeeding Rent Payment due date in such amount as will maintain such after-tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive (absent manifest error). Notwithstanding anything in a Lease to the contrary, any payment that Lessee is required to make pursuant to this subsection (b) shall be made only from Legally Available Funds.

## 18. ASSIGNMENT.

18.1. Lessee shall not sell, assign, transfer, pledge, hypothecate or grant any Lien on, nor otherwise dispose of, any Lease, any Equipment, any Escrow Agreement or any Escrow Fund or any interest in any thereof.

18.2. Lessor may assign its rights, title and interest in and to any Lease, any Equipment or any Escrow Agreement (including the Escrow Fund thereunder), and/or may grant or assign a security interest in any Lease, its Equipment or any Escrow Agreement (including the Escrow Fund thereunder), in whole or in part, to any party at any time and from time to time without Lessee's consent. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease and Escrow Agreement. LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR. Unless otherwise agreed by Lessee in writing, any

such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease, its Equipment or any Escrow Agreement (including the Escrow Fund thereunder) shall be enforceable against Lessee only after Lessee receives a written notice of assignment that discloses the name and address of each such Assignee. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with Section 149(a) of the Code. Lessee agrees to acknowledge in writing any such assignments if so requested.

18.3. Subject to the foregoing, each Lease inures to the benefit of and is binding upon the successors and assigns of the parties hereto.

19. EVENTS OF DEFAULT.

For each Lease, "Event of Default" means the occurrence of any one or more of the following events as they may relate to such Lease: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any of its obligations under Section 12.1, 14 or 18.1 hereof; (c) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof by Lessor; (d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; (e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency, moratorium or similar law; or (f) Lessee shall be in default under any other Lease or under any other financing agreement executed at any time with Lessor.

20. REMEDIES.

If any Event of Default occurs, then Lessor may, at its option, exercise any one or more of the following remedies:

(a) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all amounts then currently due under all Leases and all remaining Rent Payments due under all Leases during the fiscal year in effect when the default occurs together with accrued interest on such amounts at the respective rates provided in such Leases from the date of Lessor's demand for such payment;

(b) Lessor may require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 21 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess such Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

(c) Lessor may sell, lease or otherwise dispose of any Equipment, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, then Lessor shall apply the entire proceeds of such disposition as follows: *first*, to pay costs that Lessor has incurred in connection with exercising its remedies; *second*, to payment of amounts that are payable by Lessee under clause (a) above; and *then* to payment of the Termination Value set forth in the applicable Payment Schedule for the last Rent Payment due date for the fiscal year in which the related default occurs; *provided, however*, that



any disposition proceeds in excess of payment of all of the foregoing amounts shall be paid promptly by Lessor to Lessee;

(d) Lessor may terminate, cancel or rescind any Lease as to any and all Equipment;

(e) Lessor may exercise any other right, remedy or privilege that may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under any Lease or with respect to the Escrow Fund under the related Escrow Agreement; and/or

(f) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this Section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under any Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

#### 21. RETURN OF EQUIPMENT.

If Lessor is entitled under the provisions of any Lease, including any termination thereof pursuant to Section 6 or 20 hereof, to obtain possession of any Equipment or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessor's notice thereof to Lessee, and (b) Lessee shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the applicable Lease, shall be free and clear of any Liens (except Lessor's Lien) and shall comply with all applicable laws and regulations. Until Equipment is returned as required above, all terms of the applicable Lease shall remain in full force and effect including, without limitation, obligations to pay Rent Payments and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to such Equipment to Lessor and to evidence the termination of Lessee's interest in such Equipment.

#### 22. LAW GOVERNING; UCC ARTICLE 2A WAIVER.

(a) Each Lease shall be governed by the laws of the state in which Lessee is located (the "State").

(b) Lessee hereby willingly and knowingly waives any rights or remedies to which it may otherwise be entitled under Sections 508 through 522, inclusive, of Article 2A of the Uniform Commercial Code in effect in the State.

## 23. NOTICES.

All notices to be given under any Lease shall be made in writing and either personally delivered or mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received five (5) days subsequent to mailing if sent by regular or certified mail, or on the next business day if sent by overnight courier, or on the day of delivery if delivered personally.

## 24. FINANCIAL INFORMATION; INDEMNITY; POWER OF ATTORNEY.

24.1. Within thirty (30) days after their completion for each fiscal year of Lessee during any Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee.

24.2. To the extent authorized by the laws of the State, Lessee shall indemnify, hold harmless and, if Lessor requests, defend Lessor and its shareholders, affiliates, employees, dealers and agents against all Claims directly or indirectly arising out of or connected with (a) the manufacture, installation, use, lease, possession or delivery of the Equipment, (b) any defects in the Equipment or any wrongful act or omission of Lessee or its employees and agents, or (c) any claims of alleged breach by Lessee of any Lease, any Escrow Agreement or any related document. "Claims" means all losses, liabilities, damages, penalties, expenses (including attorney's fees and costs), claims, actions and suits, whether in contract, tort or otherwise. Notwithstanding anything in any Lease to the contrary, any indemnity amount payable by Lessee as provided in this Section 24.2 shall be payable solely from Legally Available Funds.

24.3. Lessee hereby appoints Lessor its true and lawful attorney-in-fact (with full power of substitution) to prepare any instrument, certificate of title or financing statement covering the Equipment or otherwise protecting Lessor's interest in the Equipment; and to make claims for, receive payment of and execute and endorse all documents, checks or drafts for loss, theft, damage or destruction to the Equipment under any insurance.

## 25. SECTION HEADINGS.

All section headings contained herein or in any Schedule are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

## 26. EXECUTION IN COUNTERPARTS.

This Master Lease and each Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument; *provided, however*, that only Counterpart No. 1 of each Lease (including the terms and conditions of this Master Lease incorporated therein by reference) shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.

## 27. ENTIRE AGREEMENT; WRITTEN AMENDMENTS.

Each Lease, Escrow Agreement and other documents or instruments executed by Lessee and Lessor in connection therewith constitute the entire agreement between the parties with respect to the lease and financing of the Equipment covered thereby, and such Lease shall not be modified, amended, altered or changed except with the written consent of Lessee and Lessor. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

LAKE COUNTY, as Lessee

NATIONAL CITY COMMERCIAL CAPITAL  
CORPORATION, as Lessor

By Y  
Name: Marcus W. Malczewski  
Title: Superintendent  
  
1100 East Monitor Street  
Crown Point, IN 46307

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Funding Authority  
  
995 Dalton Avenue  
Cincinnati, OH 45203

By Gerry Scheub  
Name: Gerry Scheub  
Title: Commissioner

By Frances DuPey  
Name: Frances DuPey  
Title: Commissioner

Order#25 – Agenda #18

In the Matter of L.C. Highway – County Utility Agreement – Town of St. John from Grouse Pointe to the Gates Subdivision within portions of Blaine Avenue, 101<sup>st</sup> Avenue and Cline Avenue.

Scheub made a motion, seconded by DuPey, to approve the L.C. Highway's County Utility Agreement with Town of St. John from Grouse Pointe to the Gates Subdivision within portions of Blaine Avenue, 101<sup>st</sup> Avenue and Cline Avenue. Motion passed 2-0.

## COUNTY UTILITY AGREEMENT

The Board of Commissioners of Lake County, hereinafter referred to as the Board, and  
TOWN OF ST. JOHN

Hereinafter referred to as the Permittee, hereby agree that utility facilities consisting of

*12" WATERMAIN EXTENSION FROM GROUSE POINTE  
TO THE GATES SUBDIVISION*

Located at *WITHIN PORTIONS OF BLAINE AVE, 101ST AVE &  
CLINE AVE*

Is hereby granted permission to be located within the highway right-of-way in accordance with

The attached drawings or if no drawings are attached, the utility facility will be placed adjacent to

The present utility facilities and within two feet of the right-of-way line as indicated on the plans,

for the proposed project. In consideration thereof the Permittee hereby agrees to abide by and

conform to the following terms and conditions:

1. Lake County Highway wants all utilities to be placed 2' (two Feet) from Right of Way line or, if different, then drawing must be pre-approved.
2. The above described utility facilities to be retained, installed, adjusted or relocated on, over, along or under the highway within the right-of-way limits will be located and accommodated in a manner that will not impair the planned highway, or its construction, or maintenance or interfere with its safe operation.
3. The Permittee hereby agrees to assume liability for making any necessary utility adjustments should future traffic conditions or road improvements necessitate when so requested by the Board and assume the cost thereof, except where Permittee has a compensable property right therein or where reimbursement of such costs is provided for by law.

The Permittee further agrees to comply with the rules and regulations of the Board in servicing, maintaining, replacing and removing the above described facilities, and to obtain a permit before performing any of these functions on such facilities located within the highway right-of-way.

4. The Permittee shall save harmless and indemnify the Board from any claim or damages of any nature whatsoever arising out of Permittee's negligence in connection with any work done pursuant to this agreement.

- 5. During the progress of any construction undertaken within the limits of the said highway in pursuance hereof, the Permittee shall provide watchmen and flagmen as may be reasonably required by the Board for safety and convenience of the public and shall furnish all barricades, signs and lights reasonably necessary to protect the public. Traffic shall be maintained at all times unless otherwise indicated hereon by special endorsement of the Board's duly authorized representative.
- 6. All damage to drainage structures, roadbeds, pavements and other highway appurtenances arising from the installation, maintenance or repair of Permittee's utility facilities shall be repaired at expense of Permittee. No portion of the pavement of any highway shall be disturbed without prior permission of the Board. Upon completion of any work within limits of the highway all disturbed portions shall be replaced as nearly as practicable in as good a condition as they were when work was begun.
- 7. It is understood and agreed by the Board and the utility that the utilities shall comply with the "State of Indiana, Indiana Highway Commission Policies Covering the Use and Occupancy of Public Highway Rights-of-way by Utilities 1971".
- 8. The filing of a Bond or a certificate of insurance acceptable and approved by the Lake County Board of Commissioners for the amount of \$1,000,000.00.

**Disclaimer: Lake County is not responsible for damages to utilities placed in violation or variation of the permit.**

*Stephen Z. K.P. Tam Manager*

Applicant or Authorized Representative

Date of Signature 3/8/06

BOARD OF COMMISSIONERS OF LAKE COUNTY, INDIANA

Recommended for Approval by:

*D. A. W.* 3-28-2006  
Lake County Highway Department

Lake County Highway Department

Member

*Fuances Duley*  
Member

*Gene Schuch*  
Member

ATTEST: *Rozzy Duhig Kator*  
Lake County Auditor

## Order#26 – Agenda #19A-D

In the Matter of L.C. Highway – Certificates of Liability Insurance for Anker Trucking, Inc.; Anker Trucking, Incorporated; R and R Sewer Water and Excavating, Inc.; Security Industries, Inc.

Scheub made a motion, seconded by DuPey, to accept and make a matter of public record the L.C. Highway's Certificates of Liability Insurance for Anker Trucking, Inc., Anker Trucking, Incorporated, R and R Sewer Water and Excavating, Inc. and Security Industries, Inc. Motion passed 2-0.

## Order#27 – Agenda #20

In the Matter of Contract for L.C. Jail – Food Products for the Second Quarter of 2006.

The Board having previously taken the above bids under advisement, does hereby award the contract to Shop Rite Foods, 1413 S. Lake Park, Hobart, IN 46342 for Food Products for the Second Quarter of 2006 upon a motion by Scheub, seconded by DuPey, with the recommendation of the L.C. Sheriff. Motion passed 2-0.

And it appearing to said Board of Commissioners that the above company's bid being the most responsive and responsible bid for Food Products for the Second Quarter of 2006 for the L.C. Jail, having complied with the law as provided by statute and filed with their bid the proper affidavit as by law provided and their bond or certified check in the amount of:

SHOP RITE FOODS W/ Western Surety Company in the amount of 10% of bid is hereby approved by the Board of Commissioners.

There being sufficient unobligated appropriated funds available, the contracting authority of Board of Commissioners hereby accepts the terms of the attached bid for classes or items numbered for FOOD PRODUCTS FOR THE SECOND QUARTER OF 2006 FOR THE LAKE CO. JAIL FOR \$218,767.00 and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Contracting Authority Members: Date: April 19, 2006

FRANCES DUPEY SHOP RITE FOODS  
GERRY SCHEUB

Letter of Recommendation:

March 21, 2006

Board of Commissioners  
Of the County of Lake  
2293 North Main Street  
Crown Point, IN 46307

Dear Commissioners

I have tabulated and reviewed the food bids for the second quarter of 2006.

The tabulations are indicated on the attached bid forms. I would like to recommend that the Board of Commissioners of the County of Lake award said bid to the following vendors, on the tabulation finding for each class.

SHOP RITE FOODS We would like to recommend the bid for food in the amount of \$218,767.00  
1413 S. LAKE PARK  
HOBART, IN 46342

No other bids were received.

Thank you in advance for your consideration.  
Sincerely,  
Rogelio "Roy" Dominguez  
Sheriff of Lake County Indiana

Sincerely,  
Caren Jones  
Warden of Lake County Jail

## Order#28 – Agenda #21 &amp; 22

In the Matter of Proposals: L.C. Jail – Bread and Dairy Products for the Second Quarter of 2006.

Scheub made a motion, seconded by DuPey, to accept the recommendation of the L.C. Sheriff to approve Interstate Brands Co. with \$29,769.00 for the Bread Products for the Second Quarter of 2006 and Clover Crest Dairy with \$24,038.70 for the Dairy Products for the Second Quarter of 2006. Motion passed 2-0.

Letter of Recommendation:

March 21, 2006

Board of Commissioners  
Of the County of Lake  
2293 North Main Street  
Crown Point, IN 46307

Dear Commissioners

I have tabulated and reviewed the bread and dairy proposals for the second quarter of 2006.

The tabulations are indicated on the attached bread and dairy proposal forms. I would like to recommend that the Board of Commissioners of the County of Lake award said bid to the following vendors, on the tabulation finding for each class.

## Order#28 – Agenda #21 &amp; 22 (Cont'd)

INTERSTATE BRANDS CO.  
7225 SANTA FE DRIVE  
HODGKINS, IL 60525

We would like to recommend the proposal for bread in the amount of \$29,769.00

CLOVER CREST DAIRY  
1601 W. 37<sup>TH</sup> AVENUE  
HOBART, IN 46342

We would like to recommend the proposal for dairy in the amount of \$24,038.70

Thank you in advance for your consideration.  
Sincerely,  
Rogelio "Roy" Dominguez  
Sheriff of Lake County Indiana

Sincerely,  
Caren Jones  
Warden of Lake County Jail

## Order#29 – Agenda #23

In the Matter of Specifications: L.C. Jail – Food Products for the Third Quarter of 2006.

Scheub made a motion, seconded by DuPey, to approve the L.C. Jail's Specifications for Food Products for the Third Quarter of 2006, and ordered same to be advertised for receiving of bids on Wednesday, May 17, 2006 at 9:30 a.m. Motion passed 2-0.

## Order#30 - Agenda #24 &amp; 25

In the Matter of L.C. Jail: Seek Proposals for Bread & Dairy Products for the Third Quarter of 2006.

Scheub made a motion, seconded by DuPey, to approve the seeking of proposals for the L.C. Jail for Bread & Dairy Products for the Third Quarter, 2006 from the following vendors, and ordered same to be returned by Wednesday, May 17, 2006 by 9:30 a.m. Motion passed 2-0.

**Bread**

Interstate Brands  
YES Corporation

Kreamo Bakers  
OSM, LLC

Sara Lee Bread

Auslar Global Suppliers

**Dairy**

Pleasant View Dairy  
Clover Crest Dairy, Inc.

Dairy Farms, Inc.  
OSM, LLC

U.S. Food Service

Prairie Farms

## Order#31 – Agenda #31, 32, &amp; 32A

In the Matter of Proposals: L.C. Juvenile Center – Food, Dairy, and Bread Products for the 2<sup>nd</sup> Quarter of 2006.

Scheub made a motion, seconded by DuPey, to accept the recommendation of the L.C. Juvenile Center to approve Shop Rite Foods, Inc. with \$22,523.40 for Food Products for the 2<sup>nd</sup> Quarter of 2006, Pleasant View Dairy Corp. with \$2,119.95 for Dairy Products for the 2<sup>nd</sup> Quarter of 2006, and Kreamo Bakers with \$1,887.50 for Bread Products for the 2<sup>nd</sup> Quarter of 2006. Motion passed 2-0.

**Letter of Recommendation:**

April 17, 2006

Lake County Board of Commissioners  
2293 N. Main St.  
Crown Point, IN 46307

Lake County Board of Commissioners:

We have tabulated and reviewed the Food, Bread and Dairy proposals for the Second Quarter of 2006, and the results of the tabulations are indicated on the attached Food, Bread, and Dairy worksheet.

We would like to recommend to the Board of Commissioners of the County of Lake award the bids to the following vendors based on the tabulations for each class:

Shop Rite Foods, Inc.  
1265 Lake Park  
Hobart, IN 46342

We recommend the only bid for all Classes, 1 through 15, totaling \$22,523.40 be accepted.

Kreamo Bakers  
1910 Lincolnway West  
South Bend, IN 46628

We recommend the only the only complete bid of \$1,887.50 for Bread Products be accepted.

Pleasant View Dairy Corporation  
2625 Highway Avenue  
Highland, IN 46322

We recommend the only the only complete bid of \$2,119.95 for Dairy Products be accepted.

Thank you in advance for your consideration. If you have any questions please feel free to call me at 769-4664.

Sincerely,  
Dan Arendas, Assistant Director  
Lake County Juvenile Center

## Order#32 – Agenda #33

In the Matter of L.C. Community Corrections – Equipment Schedule No. 8 to the Equipment Lease Agreement No. 81594C1 with BI, Incorporated.

Scheub made a motion, seconded by DuPey, to approve the L.C. Community Corrections' Equipment Schedule No. 8 to the Equipment Lease Agreement No. 81594C1 with BI, Incorporated. Motion passed 2-0.

EQUIPMENT SCHEDULE NO. 8  
TO THE  
EQUIPMENT LEASE AGREEMENT NO. 81594C1, EFFECTIVE DATE August 15, 1994 ("Agreement")  
BETWEEN  
BI INCORPORATED as Lessor ("BI")  
AND  
LAKE COUNTY ("Lessee")

---

- 1. EQUIPMENT DESCRIPTION:** Five (5) HG-2205 HomeGuard® 200 Units and One HG-2020R HG200 Drive-BI Upgrade, as further described in the invoice of shipping said Equipment. The Equipment is subject to the applicable warranty sheet, which is attached hereto and incorporated herein.
- 2. BILLING DATE:** The first day of the following calendar month after the date of shipping.
- 3. FIRST PAYMENT DATE:** The last day of the calendar month in which the Billing Date occurs.
- 4. LEASE PAYMENT DATES:** Monthly in arrears
- 5. TERM:** 36 Months
- 6. TOTAL MONTHLY PAYMENT:** \$268.28 (exclusive of any applicable taxes)
- 7. INSTALLATION ADDRESS:** Lake County Community Corrections  
2600 West 93<sup>rd</sup> Street  
Crown Point, IN 46307
- 8. TERMS & CONDITIONS:** The terms and conditions of the above-referenced Agreement are incorporated herein by reference.
  - A.** The coverage's provided on the attached warranty sheet(s) are available to the Lessee for the Term of this Equipment Schedule as follows:
    - (i)** During the first twelve (12) months of the Payment Term hereunder, the coverage's shall be considered "Warranty" and shall be at no charge to the Lessee.
    - (ii)** From the thirteenth (13th) month through the expiration of the Term, the coverage's shall be considered "Extended Maintenance". The Extended Maintenance is chargeable and is incorporated into the Total Monthly Payment hereunder. The allocation of the Total Monthly Payment into principal, interest and Extended Maintenance is set forth on the BI amortization schedule which references this Equipment Schedule.
- 9. CHATTEL PAPER:** This original Equipment Schedule shall constitute one lease and together with a machine copy of the executed Agreement referenced herein, shall constitute "Chattel Paper" or other "Collateral" within the meaning of the Uniform Commercial Code in any jurisdiction.

THIS EQUIPMENT SCHEDULE SHALL NOT BE EFFECTIVE UNTIL EXECUTED BY THE LESSEE AND AN AUTHORIZED REPRESENTATIVE OF LESSOR AT ITS PRINCIPAL PLACE OF BUSINESS. LESSEE REPRESENTS THAT IT HAS READ THIS EQUIPMENT SCHEDULE, HAS RECEIVED AND RETAINED A COPY OF THIS EQUIPMENT SCHEDULE, UNDERSTANDS THIS EQUIPMENT SCHEDULE, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. LESSOR AND LESSEE AGREE THAT THIS EQUIPMENT SCHEDULE TOGETHER WITH THE EQUIPMENT LEASE AGREEMENT CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND THAT THIS EQUIPMENT SCHEDULE SUPERSEDES ALL PROPOSALS, ORAL OR WRITTEN, ALL PREVIOUS NEGOTIATIONS AND ALL OTHER COMMUNICATIONS BETWEEN LESSOR AND LESSEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.



By execution hereof, the signer hereby certifies that signer is duly authorized to execute this Schedule on behalf of Lessee.

**BI INCORPORATED**

**LAKE COUNTY**

By: Michael E. Hankerd DATE: 3-29-06

By: \_\_\_\_\_ DATE: \_\_\_\_\_

Printed Name: Michael E. Hankerd

Printed Name: \_\_\_\_\_

Printed Title: Corporate Controller

Printed Title: \_\_\_\_\_

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE  
[Signature]  
[Signature]  
APPROVED THIS 19<sup>th</sup> DAY OF April 20 06

Order#33 – Agenda #34

In the Matter of Proposals for Moving the voting machines to and from the polling sites for the May 2, 2006 Primary Election for the L.C. Board of Elections and Registration.

This being the day, time and place for the receiving of proposals for Moving the voting machines to and from the polling sites for the May 2, 2006 Primary Election for the L.C. Board of Elections and Registration, the following proposals were received:

|                               |              |                              |                                 |
|-------------------------------|--------------|------------------------------|---------------------------------|
| Ferree Movers & Storage, Inc. | \$95.00/hour | \$24.00/1050 Voting Machines | \$25.00/ ½ 1050 Voting Machines |
| On-Time Transportation        | \$86.00/hour | \$26.00/M.V. Machines        | \$16.00/Infinity                |

Scheub made a motion, seconded by DuPey, to take the above proposals under advisement and refer to the L.C. Board of Elections for tabulation and recommendation. Motion passed 2-0.

Order#34 – Agenda #35

In the Matter of L.C. Emergency Management – Proposals for the replacement of existing cameras for indoor and outdoor security.

Scheub made a motion, seconded by DuPey, to approve the L.C. Emergency Management to go out on the open market for the Proposals for the replacement of existing cameras for indoor and outdoor security. Motion passed 2-0.

Order#35 – Agenda #36

In the Matter of Proposals for search and rescue equipment for Lake County USAR Team for L.C. Emergency Management.

Scheub made a motion, seconded by DuPey, to reject the bid from Fire Service, Inc. for the search and rescue equipment for Lake County USAR Team for L.C. Emergency Management and to approve the seeking of proposals for the L.C. Emergency Management for search and rescue equipment for Lake County USAR Team and ordered same to be returned by Wednesday, May 17, 2006 by 9:30 a.m. Motion passed 2-0.

Order#36 – Agenda #37

In the Matter of Proposals: L.C. Fairgrounds – New Riding Lawn Mower.

Scheub made a motion, seconded by DuPey, to accept the recommendation of the L.C. Fairgrounds to approve Hubinger Equipment, from the Maintenance Standpoint they would be less expensive, with \$9,199.20 for the New Riding Lawn Mower. Motion passed 2-0.

Order#37 – Agenda #38

In the Matter of L.C. Health Department – Request for permission to develop specifications for the construction of a building for use for the Vector Control Program.

Scheub made a motion, seconded by DuPey, to approve the L.C. Health Department's request for permission to develop specifications for the construction of a building for use for the Vector Control Program. Motion passed 2-0.

## Order#38 – Agenda #39

In the Matter of L.C. Data Processing – Service Agreement with Chester, Inc. for the year 2006 in an amount not to exceed \$1,099.00.

Scheub made a motion, seconded by DuPey, to approve the Service Agreement between the L.C. Data Processing and Chester, Inc. for the year 2006 in an amount not to exceed \$1,099.00. Motion passed 2-0.

## Order#39 – Agenda #40

In the Matter of L.C. Data Processing – Service Agreement with Standard Register for the period of April 16, 2006 to April 16, 2007 in an amount not to exceed \$693.00.

Scheub made a motion, seconded by DuPey, to approve the Service Agreement between the Data Processing and Standard Register for the period of April 16, 2006 to April 16, 2007 in an amount not to exceed \$693.00. Motion passed 2-0.

## Order#40 – Agenda #41

In the Matter of L.C. Data Processing – License Agreement for use of the CourtView Client Server V.2.25 with Maximus, Inc.

Scheub made a motion, seconded by DuPey, to approve the License Agreement for use of the CourtView Client Server V.2.25 between the L.C. Data Processing and Maximus, Inc. Motion passed 2-0.

Agreement No. \_\_\_\_\_

**LICENSE AGREEMENT  
FOR USE OF THE  
CourtView Client Server V.2.25**

This Licensed Product License Agreement ("Agreement") is entered into by and between MAXIMUS, Inc., a Virginia corporation with corporate offices at 11419 Sunset Hills Road, Reston, Virginia 20190 ("Contractor") and Lake County, Indiana ("County"), for use by the City Courts as identified in Schedule 1;

WHEREAS Contractor is the owner of the proprietary product known as the Automated Court Case Management System consisting of computer programs and basic and related materials pertinent to said programs ("Licensed Product"); and

WHEREAS, the County wishes to license the Licensed Product from Contractor in accordance with the terms and conditions specified herein; and

WHEREAS, Contractor wishes to provide a site license to the Licensed Product to the County;

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties agree as follows:

**ARTICLE I - LICENSE**

- A. Contractor grants to County a non-exclusive, perpetual (subject to Article V) non-transferable enterprise license to make use of the CourtView Client Server V.2.25 Licensed Product on the County's database servers and application servers at authorized license sites.

**ARTICLE II - FEES AND PAYMENTS**

- A. County shall pay Contractor the fees specified in Quotation #2006-123R, issued March 1, 2006. All fees are due payable by County in full within thirty (30) days of receipt of invoice.
- B. County shall be entitled to the support described in Articles of Agreement executed by the parties on \_\_\_\_\_, 2006.
- C. Licensed Product shall be shipped FOB Point of Origin.

**ARTICLE III – OWNERSHIP AND NON-DISCLOSURE**

- A. County acknowledges and agrees that the Licensed Product and accompanying documentation provided hereunder, and any copies thereof, are the sole and exclusive intellectual property of Contractor and that any disclosure of such Licensed Product or documentation, or use of such Licensed Product or documentation inconsistent with the terms of this Agreement, will violate Contractor trademarks, copyrights or other proprietary rights. County agrees to exercise the highest standards of care to protect such Licensed Product and documentation from disclosure.

- B. When necessary, this access may be achieved by remote means. It is understood and agreed that County is the custodian of court records for which public access must be provided by law. The grant of license hereunder includes permission for members of the public at large to access data records from County using the licensed software which is the subject of this Agreement. This public access is not limited in terms of the number of persons who may view County's records, but is limited to view-only inquiries. Accordingly, public inquiry view-only access shall include, but not be limited to, access via terminals at County's office, application server(s) including but not limited to Win Frame, and browser-based public inquiry view-only access when available.
- C. The County may copy for its internal use only, in whole or in part, any printed material relative to the Licensed Product to the extent necessary.
- D. The County may make one (1) copy of the Licensed Product to the extent necessary for archive or emergency restart purposes.
- E. The County agrees to keep the original and any copies of the Licensed Product at the same location as the County's designated servers, except that a machine-readable copy of the Licensed Product may be kept for archive or emergency restart purposes only at another facility.

#### **ARTICLE IV - WARRANTIES**

- A. Contractor represents that it has the right to license the Licensed Product to County as provided in ARTICLE I. Contractor further represents that the Licensed Product will conform to the description contained in the accompanying materials, but Contractor makes no other representations, warranty, or guarantees, express or implied, with respect to the accuracy, completeness, or usefulness of the Licensed Product, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. In the event the Licensed Product fails to conform to the description contained in the accompanying materials, Contractor's sole obligation shall be to correct the errors in accordance with the provisions of Article IV C.
- B. County agrees to defend and hold Contractor harmless against any claims made by any third party against Contractor arising out of County's use of the Licensed Product in a manner inconsistent with the accompanying materials unless such claims are due to the negligence or willful misconduct of Contractor.
- C. The warranty period for the Licensed Product shall extend for a period of 90 days from the date of delivery of the Licensed Product but in no event later than one hundred twenty (120) days from the date of execution of this Agreement. During the warranty period, in the event that the County encounters an error and/or malfunction whereby the Licensed Product does not conform to the description in the accompanying materials, Contractor will respond as follows:
  - 1. In the event that, in the mutual and reasonable opinion of Contractor and the County, there exists an error or nonconformance to the accompanying materials, Contractor will promptly take such commercially practicable steps as are required to correct the error.
  - 2. In the event that, in the mutual and reasonable opinion of Contractor and the County, the error or nonconformance to the accompanying materials does not constitute a serious impediment to the normal intended use of the Licensed Product, Contractor will correct the error and distribute the correction to the County in accordance with Contractor's normal revision schedule.

#### **ARTICLE V - LIMITATION OF LIABILITY**

IN NO EVENT SHALL EITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES

ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, LOSS OF TECHNOLOGY RIGHTS OR SERVICES, LOSS OF DATA, OR INTERRUPTION OR LOSS OF USE OF SOFTWARE OR ANY PORTION THEREOF, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION SHALL APPLY TO ALL CLAIMS WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE. CONTRACTOR'S LIABILITY (IF ANY) TO THE COUNTY OR ANY THIRD PARTY IS LIMITED TO THE LICENSE FEES PAID TO CONTRACTOR UNDER ARTICLE II A. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF ANY EXCLUSIVE REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

ANY CLAIM RELATING TO THIS AGREEMENT MUST BE MADE IN WRITING AND PRESENTED TO THE OTHER PARTY WITHIN ONE (1) YEAR OF THE DATE OF THE EVENT GIVING RISE TO THE CLAIM.

THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

#### **ARTICLE VI - TERMINATION**

- A. Should either party materially breach the terms and conditions of this Agreement, the other party may terminate this Agreement upon thirty (30) days prior written notice, which notice shall specify the nature of the default and the effective termination date. If the default is curable, upon such notice of termination, the party in default shall be entitled to the opportunity to so cure prior to the effective termination date. County agrees that breach of Article III of this Agreement is by its nature not capable of cure, and furthermore, that any such breach shall result in immediate termination for cause without the requirement of notice.
- B. County may terminate this Agreement at any time after one (1) year from the effective date of the Agreement.
- C. Upon either (1) termination by Contractor for cause or (2) termination by County pursuant to paragraph B of this Article VI, the license granted hereunder shall be immediately revoked and the Licensed Product and related documentation and any copies thereof shall be either returned to Contractor, or destroyed by County and an affidavit certifying such destruction provided to Contractor. Should this Agreement terminate pursuant to Contractor default, County shall retain the right to continued use of the Licensed Product subject to the terms of Article I and Article III which shall survive such termination.
- D. Regardless of the reason for termination, and, if for cause pursuant to paragraph A of this Article VI, regardless of which party is in default, County will remain liable to Contractor for all unpaid Licensed Product license fees. All Licensed Product and documentation supplied hereunder by Contractor, and any copies thereof, are and shall remain the property of Contractor.
- E. Termination of this Agreement for any reason shall not relieve County of its obligations under the County-Contractor General Terms, or the Articles of Agreement.

#### **ARTICLE VII - ASSIGNMENT**

This Agreement shall not be assignable by either party without the prior written consent of the other party, and any attempted assignment without such consent shall be void. No assignment of this Agreement shall be valid until and unless consented to in writing by the consenting part and assumed by the assignee

in writing. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

**ARTICLE VIII – COUNTY’S ENTERPRISE**

County’s application server(s) and database server(s) are as follows:

| <u>Server(s)</u>                 | <u>Location(s)</u> |
|----------------------------------|--------------------|
| Application Server(s): Unlimited | No restrictions    |
| Database Server(s): Unlimited    | No restrictions    |

**ARTICLE IX - ENTIRE AGREEMENT**

This Agreement supersedes all prior proposals, oral or written, all previous negotiations and all other communications or understandings between Contractor and County with respect to the subject matter hereof. It is expressly agreed that if County issues a purchase order or other document for the services provided under this Agreement, such instrument will be deemed for County’s internal use only, and any provisions contained therein shall have no effect whatsoever upon this Agreement. This Agreement sets forth the sole and entire understanding between Contractor and County with respect to the subject matter. No amendments to this Agreement, either at the execution or subsequently, shall be binding on Contractor or County unless agreed to in writing by both parties.

**ARTICLE X - GOVERNING LAW; DISPUTES**

This Agreement shall be governed by the law(s) of the State of Indiana.

**ARTICLE XI - SURVIVAL**

Articles III and V shall survive termination or expiration of this Agreement. Article I shall survive this Agreement if required under Article VI C.

**ARTICLE XIII – AUTHORIZATION**

Each individual signing this Agreement certifies that (i) he or she is authorized to sign this Agreement on behalf of his or her respective organization, (ii) such organization has obtained all necessary approvals to enter into this Agreement, including but not limited to the approval of its governing board, and (iii) when executed, this Agreement is a valid and enforceable obligation of such organization.

IN WITNESS WHEREOF, the parties enter into this Agreement as of \_\_\_\_\_, 2006, the effective date.

**MAXIMUS, Inc.**  
 By: *Kathleen McWilliams*  
 Title: President – Justice Solutions Division  
 Date: March 22, 2006

**Lake County, Indiana**  
**BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE**  
 By: *Frances Dwyer*  
 Title: \_\_\_\_\_  
 Date: *[Signature]*  
 APPROVED THIS 17 DAY OF April 2006

**Schedule 1 – Authorized Product Use**

The site license granted under this Agreement is limited to the geographical location of Lake County, Indiana. Users of the software under this site license shall include:

|   |   |
|---|---|
| <b>Crown Point City Court</b><br>PO Box 594<br>Courthouse Square<br>Crown Point, IN 46307 | <b>Whiting City Court</b><br>1443 119th Street<br>Whiting, IN 46394       |
| <b>East Chicago City Court</b><br>2301 E. Columbus Drive<br>East Chicago, IN 46312        | <b>Hammond City Court</b><br>5925 Calumet Avenue<br>Hammond, IN 46320     |
| <b>Lake Station City Court</b><br>3701 Fairview Avenue<br>Lake Station, IN 46405          | <b>Hobart City Court</b><br>414 Main Street<br>Hobart, IN 46342           |
| <b>Gary City Court</b><br>555 Polk Street<br>Gary, IN 46402                               | <b>Merrillville Town Court</b><br>7820 Broadway<br>Merrillville, IN 46410 |
| <b>Schererville Town Court</b><br>25 East Joliet Street<br>Schererville, IN 46375         | <b>Lowell Town Court</b><br>501 E. Main Street<br>Lowell, IN 46356        |

## Order#41 – Agenda #42

In the Matter of L.C. Data Processing/ L.C. Council – Memorandum of Understanding for an Automated Case Management System with the Town of Schererville.

Scheub made a motion, seconded by DuPey, to approve the Memorandum of Understanding for an Automated Case Management System between the L.C. Data Processing/ L.C. Council and the Town of Schererville. Motion passed 2-0.

MEMORANDUM OF UNDERSTANDING  
FOR AN AUTOMATED CASE MANAGEMENT SYSTEM

This Memorandum of Understanding (Agreement) is made and entered into by and between the City/Town Court and Clerk of the City/Town of **Schererville**, (Court/Clerk) and the County of Lake, through the Lake County Board of Commissioners and the Lake County Council (County):

RECITALS

- WHEREAS, the Court is the properly established Court and the Clerk is the officially elected Clerk of the Court of the City/Town of **Schererville**; and
- WHEREAS, the Lake County Board of Commissioners is the executive of Lake County, Indiana, and the Lake County Council is the legislative and fiscal body of Lake County, Indiana; and
- WHEREAS, in 2004, 28,600 infractions were filed in Lake Superior Court, County Divisions I, II, III and IV, and the automated case management system utilized by the courts permitted the timely electronic transmission of information on traffic infractions to the Indiana Bureau of Motor Vehicles (BMV) as required by current law; and
- WHEREAS, in 2004, 43,067 infractions were filed in the ten city and town courts in Lake County, which courts have no means of electronically transmitting information on traffic infractions to the BMV; and
- WHEREAS, Lake County desires to assist the city and town courts of Lake County to transmit traffic infraction and selected information to the BMV; and
- WHEREAS, the Indiana Supreme Court and its Judicial Technology Automation Committee (JTAC) has responded favorably to the request of the Lake Superior Courts to assist and enable the ten city and town courts in Lake County to electronically transmit information to the BMV as required by current Indiana law; and
- WHEREAS, the Indiana Supreme Court in conjunction with the BMV has received a federal grant to be used to improve the transmission to the BMV of information on certain traffic information; and
- WHEREAS, the Indiana Supreme Court has decided that subject to a definite grant agreement between the Supreme Court, Lake County and participating city and town courts, the Supreme Court contemplates making a grant to Lake County in the amount of Two Hundred Seventy-Seven Thousand Seven Hundred and One (\$277,701.00) Dollars to be used by Lake County to assist the cities and towns of Crown Point, East Chicago, Gary, Hammond, Hobart, Lake Station, Lowell, Merrillville, Schererville and Whiting, to establish an automatic case management system to be used by each

city and town court to permit the timely electronic transmission to the BMV as required by current law; and

WHEREAS, the County will assist the city and town courts in the following areas related to the timely electronic transmission to the BMV of relevant information on traffic infraction cases:

1. New hardware;
2. Maximus/CourtView software licenses;
3. Cabling;
4. Training;
5. Software annual maintenance - first year only;
6. Annual T-1 or DSL line expense - first year only.

NOW, THEREFORE, IN CONSIDERATION OF THE foregoing representations and covenant hereinafter set forth, the parties agree as follows:

1. Authority. The parties agree that this Agreement is specifically undertaken pursuant to the authority under Indiana Law to enter into binding Agreements.
2. Term of Agreement. The term of this Agreement shall be from **the date of signing** through **December 31, 2006**, and shall automatically renew each year unless the Court/Clerk or County notifies in writing the other party of its termination at least 60 days before the end of the current term.
3. Purpose of Agreement. The purpose of this Agreement is for the County to assist the City and Town Courts and Clerks in the following areas in order to timely electronically transmit to the BMV relevant information on traffic infraction cases heard by the City and Town Courts:
  - A. New Hardware;
  - B. Maximus/CourtView software licenses;
  - C. Cabling;
  - D. Training;
  - E. Software annual maintenance - first year only;
  - F. Annual T-1 or DSL line expense - first year only.
4. Functions and Services. The following specific functions and services are to be performed or furnished by the County on behalf of the **Schererville** Court/Clerk:
  - A. **Four (4)** Maximus automatic case management system/CourtView licenses;
  - B. **Four (4)** terminal server licenses;
  - C. First year annual support fee for **four (4)** Maximus licenses;



- D. Purchase and installation of a T-1 router or DSL line at a cost not to exceed **\$0**;
  - E. Purchase and installation of **four (4)** cable drops at a cost not to exceed **\$2,000**;
  - F. Up to four (4) hours of training for each of **four (4)** staff members of the Court/Clerk;
  - G. T-1 or DSL line charges for one year to vendor (SBC or Qwest);
  - H. The following other equipment:
    - i.) Printers: **One**;
    - ii) Personal computers: **None**;
    - iii) Other: **None**.
5. Data Conversion. It is expressly agreed that any data conversion from the current data processing system used by the Court/Clerk to the CourtView system shall be the sole option and financial responsibility of the Court/Clerk. The County shall provide no funding for such data conversion.
6. Responsibilities and Duties of the Court/Clerk. The Court/Clerk agrees as follows:
  - A. To permit access for Lake County employees or their designees to install equipment, test systems, on premises, if necessary, and to train employees of the clerk and court;
  - B. To only use the network, system, and equipment according to the best practices as defined and modified by Lake County and the Lake County Data Processing Agency or its assignee;
7. Fees. The Court/Clerk agrees to pay the following fees to the County within 45 days of invoice date for the listed services:
  - A. Miscellaneous start-up expenses incurred over and above the items or amounts listed in paragraph number 4;
  - B. T-1 or DSL line costs after the first year;
  - C. Maximus annual automated case management systems/CourtView support fees after the first year;
  - D. Other equipment and training as required by the City/Town Court and not covered in this Agreement.
8. Effective Date and Commencement of Terms. This Agreement shall be effective and the terms set forth shall be deemed enforceable upon the signature and approval of all the parties.

IN WITNESS WHEREOF, the Court/Clerk and the County, through duly authorized representatives, have entered into this Memorandum of Understanding; and having read and understood the foregoing terms of this Memorandum of Understanding, the Court/Clerk and the County do by their respective signatures dated below agree to such terms.

COUNTY OF LAKE:

By: Gerry J. Scheub Date: 4-19-06  
Gerry J. Scheub  
President County Commissioners

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Rudolph Clay  
County Commissioner

By: Frances DuPey Date: 4-19-06  
Frances DuPey  
County Commissioner

COUNTY OF LAKE:

By: Will A. Smith, Jr. Date: 4/11/2006  
Will A. Smith, Jr.  
President, County Council

By: Ron Tabaczynski Date: 4/11/2006  
Ron Tabaczynski  
County Councilman

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Larry Blanchard  
County Councilman

By: Thomas O'Donnell Date: 4/11/06  
Thomas O'Donnell  
County Councilman

By: Christine Cid Date: 4/11/06  
Christine Cid  
County Councilwoman

By: Elsie Franklin Date: 4/11/06  
Elsie Franklin  
County Councilwoman

By: Donald Potrebic Date: 4/11/06  
Donald Potrebic  
County Councilman

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MOU.121605[2].SCHERERVILLE.DOC



COURT/CLERK

By: Honorable Kenneth L. Anderson Date: 3-7-06  
Honorable Kenneth L. Anderson  
Judge, Schererville Town Court

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Clerk of the Court

Order#42 – Agenda #43

In the Matter of L.C. Data Processing/L.C. Council – Memorandum of Understanding for an Automated Case Management System with the City of Crown Point.

Scheub made a motion, seconded by DuPey, to approve the Memorandum of Understanding for an Automated Case Management System between the L.C. Data Processing/L.C. Council and the City of Crown Point. Motion passed 2-0.

**MEMORANDUM OF UNDERSTANDING  
FOR AN AUTOMATED CASE MANAGEMENT SYSTEM  
IN CROWN POINT CITY COURT**

This Memorandum of Understanding (Agreement) is made and entered into by and between the City/Town Court and Clerk of the City/Town of **Crown Point**, (Court/Clerk) and the County of Lake, through the Lake County Board of Commissioners and the Lake County Council (County):

RECITALS

- WHEREAS, the Court is the properly established Court and the Clerk is the officially elected Clerk of the Court of the City/Town of **Crown Point**; and
- WHEREAS, the Lake County Board of Commissioners is the executive of Lake County, Indiana, and the Lake County Council is the legislative and fiscal body of Lake County, Indiana; and
- WHEREAS, in 2004, 28,600 infractions were filed in Lake Superior Court, County Divisions I, II, III and IV, and the automated case management system utilized by the courts permitted the timely electronic transmission of information on traffic infractions to the Indiana Bureau of Motor Vehicles (BMV) as required by current law; and
- WHEREAS, in 2004, 43,067 infractions were filed in the ten city and town courts in Lake County, which courts have no means of electronically transmitting information on traffic infractions to the BMV; and
- WHEREAS, Lake County desires to assist the city and town courts of Lake County to transmit traffic infraction and selected information to the BMV; and
- WHEREAS, the Indiana Supreme Court and its Judicial Technology Automation Committee (JTAC) has responded favorably to the request of the Lake Superior Courts to assist and enable the ten city and town courts in Lake County to electronically transmit information to the BMV as required by current Indiana law; and
- WHEREAS, the Indiana Supreme Court in conjunction with the BMV has received a federal grant to be used to improve the transmission to the BMV of information on certain traffic information; and
- WHEREAS, the Indiana Supreme Court has decided that subject to a definite grant agreement between the Supreme Court, Lake County and participating city and town courts, the Supreme Court contemplates making a grant to Lake County in the amount of Two Hundred Seventy-Seven Thousand Seven Hundred and One (\$277,701.00) Dollars to be used by Lake County to assist the cities and towns of Crown Point, East Chicago, Gary, Hammond, Hobart, Lake Station, Lowell, Merrillville, Schererville and Whiting, to establish an automatic case management system to be used by each

city and town court to permit the timely electronic transmission to the BMV as required by current law; and

WHEREAS, the County will assist the city and town courts in the following areas related to the timely electronic transmission to the BMV of relevant information on traffic infraction cases:

1. New hardware;
2. Maximus/CourtView software licenses;
3. Cabling;
4. Training;
5. Software annual maintenance - first year only;
6. Annual T-1 or DSL line expense - first year only.

NOW, THEREFORE, IN CONSIDERATION OF THE foregoing representations and covenant hereinafter set forth, the parties agree as follows:

1. Authority. The parties agree that this Agreement is specifically undertaken pursuant to the authority under Indiana Law to enter into binding Agreements.
2. Term of Agreement. The term of this Agreement shall be from **the date of signing through December 31, 2006**, and shall automatically renew each year unless the Court/Clerk or County notifies in writing the other party of its termination at least 60 days before the end of the current term.
3. Purpose of Agreement. The purpose of this Agreement is for the County to assist the City and Town Courts and Clerks in the following areas in order to timely electronically transmit to the BMV relevant information on traffic infraction cases heard by the City and Town Courts:
  - A. New Hardware;
  - B. Maximus/CourtView software licenses;
  - C. Cabling;
  - D. Training;
  - E. Software annual maintenance - first year only;
  - F. Annual T-1 or DSL line expense - first year only.
4. Functions and Services. The following specific functions and services are to be performed or furnished by the County on behalf of the **Crown Point** Court/Clerk:
  - A. **Three (3)** Maximus automatic case management system/CourtView licenses;
  - B. **Three (3)** terminal server licenses;
  - C. First year annual support fee for **three (3)** Maximus licenses;
  - D. Purchase and installation of a DSL line at a cost not to exceed **\$79.99**;

- E. Purchase and installation of **three (3)** cable drops at a cost not to exceed **\$1,000**;
  - F. Up to four (4) hours of training for each of **three (3)** staff members of the Court/Clerk;
  - G. DSL line charges for one year to vendor (SBC or Qwest);
  - H. The following other equipment:
    - i.) Printers: **One**;
    - ii) Personal computers: **One**;
    - iii) Other: **None**.
5. Data Conversion. It is expressly agreed that any data conversion from the current data processing system used by the Court/Clerk to the CourtView system shall be the sole option and financial responsibility of the Court/Clerk. The County shall provide no funding for such data conversion.
6. Responsibilities and Duties of the Court/Clerk. The Court/Clerk agrees as follows:
  - A. To permit access for Lake County employees or their designees to install equipment, test systems, on premises, if necessary, and to train employees of the clerk and court;
  - B. To only use the network, system, and equipment according to the best practices as defined and modified by Lake County and the Lake County Data Processing Agency or its assignee;
7. Fees. The Court/Clerk agrees to pay the following fees to the County within 45 days of invoice date for the listed services:
  - A. Miscellaneous start-up expenses incurred over and above the items or amounts listed in paragraph number 4;
  - B. T-1 or DSL line costs after the first year;
  - C. Maximus annual automated case management systems/CourtView support fees after the first year;
  - D. Other equipment and training as required by the City/Town Court and not covered in this Agreement.
8. Effective Date and Commencement of Terms. This Agreement shall be effective and the terms set forth shall be deemed enforceable upon the signature and approval of all the parties.

IN WITNESS WHEREOF, the Court/Clerk and the County, through duly authorized representatives, have entered into this Memorandum of Understanding; and having read and understood the foregoing terms of this Memorandum of Understanding, the Court/Clerk and the County do by their respective signatures dated below agree to such terms.

COUNTY OF LAKE:

By: Gerry J. Scheub Date: 4-19-06  
Gerry J. Scheub  
President County Commissioners

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Rudolph Clay  
County Commissioner

By: Frances DuPey Date: 4-19-06  
Frances DuPey  
County Commissioner

COUNTY OF LAKE:

By: Will A. Smith, Jr. Date: 4/11/2006  
Will A. Smith, Jr.  
President, County Council

By: Ron Tabaczynski Date: 4/11/2006  
Ron Tabaczynski  
County Councilman

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Larry Blanchard  
County Councilman

By: Thomas O'Donnell Date: 4/11/2006  
Thomas O'Donnell  
County Councilman

By: Christine Cid Date: 4/11/2006  
Christine Cid  
County Councilwoman

By: Elsie Franklin Date: 4/11/2006  
Elsie Franklin  
County Councilwoman

By: Donald Potrebic Date: 4/11/2006  
Donald Potrebic  
County Councilman



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COURT/CLERK  
By: Honorable Kent A. Jeffirs Date: 3-16-06  
Honorable Kent A. Jeffirs  
Judge, Crown Point City Court

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Clerk of the Court

Order#43 – Agenda #44

In the Matter of L.C. Data Processing/L.C. Council – Memorandum of Understanding for an Automated Case Management System with the City of East Chicago.

Scheub made a motion, seconded by DuPey, to approve the Memorandum of Understanding for an Automated Case Management System between the L.C. Data Processing/L.C. Council and the City of East Chicago. Motion passed 2-0.

**MEMORANDUM OF UNDERSTANDING  
FOR AN AUTOMATED CASE MANAGEMENT SYSTEM  
IN EAST CHICAGO CITY COURT**

This Memorandum of Understanding (Agreement) is made and entered into by and between the City/Town Court and Clerk of the City/Town of **East Chicago**, (Court/Clerk) and the County of Lake, through the Lake County Board of Commissioners and the Lake County Council (County):

RECITALS

WHEREAS, the Court is the properly established Court and the Clerk is the officially elected Clerk of the Court of the City/Town of **East Chicago**; and

WHEREAS, the Lake County Board of Commissioners is the executive of Lake County, Indiana, and the Lake County Council is the legislative and fiscal body of Lake County, Indiana; and

WHEREAS, in 2004, 28,600 infractions were filed in Lake Superior Court, County Divisions I, II, III and IV, and the automated case management system utilized by the courts permitted the timely electronic transmission of information on traffic infractions to the Indiana Bureau of Motor Vehicles (BMV) as required by current law; and

WHEREAS, in 2004, 43,067 infractions were filed in the ten city and town courts in Lake County, which courts have no means of electronically transmitting information on traffic infractions to the BMV; and

WHEREAS, Lake County desires to assist the city and town courts of Lake County to transmit traffic infraction and selected information to the BMV; and

WHEREAS, the Indiana Supreme Court and its Judicial Technology Automation Committee (JTAC) has responded favorably to the request of the Lake Superior Courts to assist and enable the ten city and town courts in Lake County to electronically transmit information to the BMV as required by current Indiana law; and

WHEREAS, the Indiana Supreme Court in conjunction with the BMV has received a federal grant to be used to improve the transmission to the BMV of information on certain traffic information; and

WHEREAS, the Indiana Supreme Court has decided that subject to a definite grant agreement between the Supreme Court, Lake County and participating city and town courts, the Supreme Court contemplates making a grant to Lake County in the amount of Two Hundred Seventy-Seven Thousand Seven Hundred and One (\$277,701.00) Dollars to be used by Lake County to assist the cities and towns of Crown Point, East Chicago, Gary, Hammond, Hobart, Lake Station, Lowell, Merrillville, Schererville

and Whiting, to establish an automatic case management system to be used by each city and town court to permit the timely electronic transmission to the BMV as required by current law; and

WHEREAS, the County will assist the city and town courts in the following areas related to the timely electronic transmission to the BMV of relevant information on traffic infraction cases:

1. New hardware;
2. Maximus/CourtView software licenses;
3. Cabling;
4. Training;
5. Software annual maintenance - first year only;
6. Annual T-1 or DSL line expense - first year only.

NOW, THEREFORE, IN CONSIDERATION OF THE foregoing representations and covenant hereinafter set forth, the parties agree as follows:

1. Authority. The parties agree that this Agreement is specifically undertaken pursuant to the authority under Indiana Law to enter into binding Agreements.
2. Term of Agreement. The term of this Agreement shall be from **the date of signing** through **December 31, 2006**, and shall automatically renew each year unless the Court/Clerk or County notifies in writing the other party of its termination at least 60 days before the end of the current term.
3. Purpose of Agreement. The purpose of this Agreement is for the County to assist the City and Town Courts and Clerks in the following areas in order to timely electronically transmit to the BMV relevant information on traffic infraction cases heard by the City and Town Courts:
  - A. New Hardware;
  - B. Maximus/CourtView software licenses;
  - C. Cabling;
  - D. Training;
  - E. Software annual maintenance - first year only;
  - F. Annual T-1 or DSL line expense - first year only.
4. Functions and Services. The following specific functions and services are to be performed or furnished by the County on behalf of the **East Chicago** Court/Clerk:
  - A. **Six (6)** Maximus automatic case management system/CourtView licenses;
  - B. **Six (6)** terminal server licenses;
  - C. First year annual support fee for **six (6)** Maximus licenses;



- D. Purchase and installation of a T-1 router or DSL line at a cost not to exceed **\$79.99**;
  - E. Purchase and installation of **six (6)** cable drops at a cost not to exceed **\$4,500**;
  - F. Up to four (4) hours of training for each of **six (6)** staff members of the Court/Clerk;
  - G. T-1 line charges for one year to vendor (SBC or Qwest);
  - H. The following other equipment:
    - i.) Printers: **One**;
    - ii) Personal computers: **None**;
    - iii) Other: **None**.
5. Data Conversion. It is expressly agreed that any data conversion from the current data processing system used by the Court/Clerk to the CourtView system shall be the sole option and financial responsibility of the Court/Clerk. The County shall provide no funding for such data conversion.
6. Responsibilities and Duties of the Court/Clerk. The Court/Clerk agrees as follows:
  - A. To permit access for Lake County employees or their designees to install equipment, test systems, on premises, if necessary, and to train employees of the clerk and court;
  - B. To only use the network, system, and equipment according to the best practices as defined and modified by Lake County and the Lake County Data Processing Agency or its assignee;
7. Fees. The Court/Clerk agrees to pay the following fees to the County within 45 days of invoice date for the listed services:
  - A. Miscellaneous start-up expenses incurred over and above the items or amounts listed in paragraph number 4;
  - B. T-1 or DSL line costs after the first year;
  - C. Maximus annual automated case management systems/CourtView support fees after the first year;
  - D. Other equipment and training as required by the City/Town Court and not covered in this Agreement.
8. Effective Date and Commencement of Terms. This Agreement shall be effective and the terms set forth shall be deemed enforceable upon the signature and approval of all the parties.

IN WITNESS WHEREOF, the Court/Clerk and the County, through duly authorized representatives, have entered into this Memorandum of Understanding; and having read and understood the foregoing terms of this Memorandum of Understanding, the Court/Clerk and the County do by their respective signatures dated below agree to such terms.

COUNTY OF LAKE:

By: Gerry J. Scheub Date: 4-19-06  
Gerry J. Scheub  
President County Commissioners

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Rudolph Clay  
County Commissioner

By: Frances DuPey Date: 4-19-06  
Frances DuPey  
County Commissioner

COUNTY OF LAKE:  
By: Will A. Smith, Jr. Date: 4/11/2006  
Will A. Smith, Jr.  
President, County Council

By: Ron Tabaczynski Date: 4/11/2006  
Ron Tabaczynski  
County Councilman

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Larry Blanchard  
County Councilman

By: Thomas O'Donnell Date: 4/11/2006  
Thomas O'Donnell  
County Councilman

By: Christine Cid Date: 4/11/2006  
Christine Cid  
County Councilwoman

By: Elsie Franklin Date: 4/11/2006  
Elsie Franklin  
County Councilwoman

By: Donald Potrebic Date: 4/11/2006  
Donald Potrebic  
County Councilman



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COURT/CLERK

By: Honorable Sonya A. Morris Date: March 2, 2006  
Honorable Sonya A. Morris  
Judge, East Chicago City Court

By: Mary Morris Leonard Date: March 7, 2006  
Clerk of the Court

Order#44 – Agenda #45

In the Matter of L.C. Data Processing/L.C. Council – Memorandum of Understanding for an Automated Case Management System with the City of Lake Station.

Scheub made a motion, seconded by DuPey, to approve the Memorandum of Understanding for an Automated Case Management System between the L.C. Data Processing/L.C. Council and the City of Lake Station. Motion passed 2-0.

**MEMORANDUM OF UNDERSTANDING  
FOR AN AUTOMATED CASE MANAGEMENT SYSTEM  
IN LAKE STATION CITY COURT**

This Memorandum of Understanding (Agreement) is made and entered into by and between the City/Town Court and Clerk of the City/Town of **Lake Station**, (Court/Clerk) and the County of Lake, through the Lake County Board of Commissioners and the Lake County Council (County):

RECITALS

WHEREAS, the Court is the properly established Court and the Clerk is the officially elected Clerk of the Court of the City/Town of **Lake Station**; and

WHEREAS, the Lake County Board of Commissioners is the executive of Lake County, Indiana, and the Lake County Council is the legislative and fiscal body of Lake County, Indiana; and

WHEREAS, in 2004, 28,600 infractions were filed in Lake Superior Court, County Divisions I, II, III and IV, and the automated case management system utilized by the courts permitted the timely electronic transmission of information on traffic infractions to the Indiana Bureau of Motor Vehicles (BMV) as required by current law; and

WHEREAS, in 2004, 43,067 infractions were filed in the ten city and town courts in Lake County, which courts have no means of electronically transmitting information on traffic infractions to the BMV; and

WHEREAS, Lake County desires to assist the city and town courts of Lake County to transmit traffic infraction and selected information to the BMV; and

WHEREAS, the Indiana Supreme Court and its Judicial Technology Automation Committee (JTAC) has responded favorably to the request of the Lake Superior Courts to assist and enable the ten city and town courts in Lake County to electronically transmit information to the BMV as required by current Indiana law; and

WHEREAS, the Indiana Supreme Court in conjunction with the BMV has received a federal grant to be used to improve the transmission to the BMV of information on certain traffic information; and

WHEREAS, the Indiana Supreme Court has decided that subject to a definite grant agreement between the Supreme Court, Lake County and participating city and town courts, the Supreme Court contemplates making a grant to Lake County in the amount of Two Hundred Seventy-Seven Thousand Seven Hundred and One (\$277,701.00) Dollars to be used by Lake County to assist the cities and towns of Crown Point, East Chicago, Gary, Hammond, Hobart, Lake Station, Lowell, Merrillville, Schererville

and Whiting, to establish an automatic case management system to be used by each city and town court to permit the timely electronic transmission to the BMV as required by current law; and

WHEREAS, the County will assist the city and town courts in the following areas related to the timely electronic transmission to the BMV of relevant information on traffic infraction cases:

1. New hardware;
2. Maximus/CourtView software licenses;
3. Cabling;
4. Training;
5. Software annual maintenance - first year only;
6. Annual T-1 or DSL line expense - first year only.

NOW, THEREFORE, IN CONSIDERATION OF THE foregoing representations and covenant hereinafter set forth, the parties agree as follows:

1. Authority. The parties agree that this Agreement is specifically undertaken pursuant to the authority under Indiana Law to enter into binding Agreements.
2. Term of Agreement. The term of this Agreement shall be from **the date of signing** through **December 31, 2006**, and shall automatically renew each year unless the Court/Clerk or County notifies in writing the other party of its termination at least 60 days before the end of the current term.
3. Purpose of Agreement. The purpose of this Agreement is for the County to assist the City and Town Courts and Clerks in the following areas in order to timely electronically transmit to the BMV relevant information on traffic infraction cases heard by the City and Town Courts:
  - A. New Hardware;
  - B. Maximus/CourtView software licenses;
  - C. Cabling;
  - D. Training;
  - E. Software annual maintenance - first year only;
  - F. Annual T-1 or DSL line expense - first year only.
4. Functions and Services. The following specific functions and services are to be performed or furnished by the County on behalf of the **Lake Station** Court/Clerk:
  - A. **One (1)** Maximus automatic case management system/CourtView licenses;
  - B. **One (1)** terminal server licenses;
  - C. First year annual support fee for **one (1)** Maximus licenses;

- D. Purchase and installation of a DSL line at a cost not to exceed **\$0**;
  - E. Purchase and installation of **one (1)** cable drops at a cost not to exceed **\$750**;
  - F. Up to four (4) hours of training for each of **one (1)** staff members of the Court/Clerk;
  - G. T-1 line charges for one year to vendor (SBC or Qwest);
  - H. The following other equipment:
    - i.) Printers: **One**;
    - ii) Personal computers: **None**;
    - iii) Other: **None**.
5. Data Conversion. It is expressly agreed that any data conversion from the current data processing system used by the Court/Clerk to the CourtView system shall be the sole option and financial responsibility of the Court/Clerk. The County shall provide no funding for such data conversion.
6. Responsibilities and Duties of the Court/Clerk. The Court/Clerk agrees as follows:
  - A. To permit access for Lake County employees or their designees to install equipment, test systems, on premises, if necessary, and to train employees of the clerk and court;
  - B. To only use the network, system, and equipment according to the best practices as defined and modified by Lake County and the Lake County Data Processing Agency or its assignee;
7. Fees. The Court/Clerk agrees to pay the following fees to the County within 45 days of invoice date for the listed services:
  - A. Miscellaneous start-up expenses incurred over and above the items or amounts listed in paragraph number 4;
  - B. T-1 or DSL line costs after the first year;
  - C. Maximus annual automated case management systems/CourtView support fees after the first year;
  - D. Other equipment and training as required by the City/Town Court and not covered in this Agreement.
8. Effective Date and Commencement of Terms. This Agreement shall be effective and the terms set forth shall be deemed enforceable upon the signature and approval of all the parties.

IN WITNESS WHEREOF, the Court/Clerk and the County, through duly authorized representatives, have entered into this Memorandum of Understanding; and having read and understood the foregoing terms of this Memorandum of Understanding, the Court/Clerk and the County do by their respective signatures dated below agree to such terms.

COUNTY OF LAKE:

By: Gerry J. Scheib  
Gerry J. Scheib  
President County Commissioners

Date: 4-19-06

By: \_\_\_\_\_  
Rudolph Clay  
County Commissioner

Date: \_\_\_\_\_

By: Frances DuPey  
Frances DuPey  
County Commissioner

Date: 4-19-06

COUNTY OF LAKE:

By: Will A. Smith, Jr.  
Will A. Smith, Jr.  
President, County Council

Date: 4/11/2006

By: Ron Tabaczynski  
Ron Tabaczynski  
County Councilman

Date: 4/11/2006

By: \_\_\_\_\_  
Larry Blanchard  
County Councilman

Date: 4/1/2006

By: Thomas O'Donnell  
Thomas O'Donnell  
County Councilman

Date: 4/11/2006

By: Christine Cid  
Christine Cid  
County Councilwoman

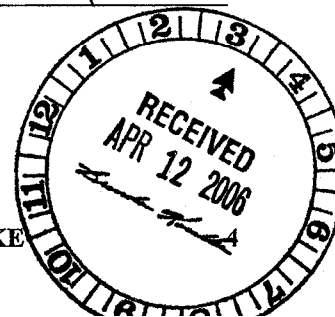
Date: 4/11/2006

By: Elsie Franklin  
Elsie Franklin  
County Councilwoman

Date: 4/11/2006

By: Donald Potrebic  
Donald Potrebic  
County Councilman

Date: 4/11/2006



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COURT CLERK

By: Honorable Kristina Kantar  
Honorable Kristina Kantar  
Judge, Lake Station City Court

Date: 2/27/06

By: Clerk of the Court  
Clerk of the Court

Date: 3-14-06

Order#45 – Agenda #46

In the Matter of L.C. Data Processing – Recommendation concerning requests for property disposal from the L.C. Fairgrounds and Superior Court IV-D Division in Gary.

Scheub made a motion, seconded by DuPey, to approve the L.C. Data Processing's recommendation concerning requests for property disposal from the L.C. Fairgrounds and Superior Court IV-D Division in Gary. Motion passed 2-0.

Order#46 – Agenda #47

In the Matter of L.C. Building Manager – Request for permission to redesign the steps on the North side of Building A, Resolution – Indemnification Agreement and request for permission to go before the L.C. Council to seek funding for this project.

Scheub made a motion, seconded by DuPey, to approve the L.C. Building Manager's request for permission to redesign the steps on the North side of Building A, Resolution – Indemnification Agreement and request for permission to go before the L.C. Council to seek funding for this project. Motion passed 2-0.

RESOLUTION NO. 06-05  
INDEMNIFICATION AGREEMENT

For and in consideration of the necessity of Daniel Ombac, Building Superintendent to perform work of designing the replacement steps located on the North Side of Building A, Lake County Government Complex, 2293 North Main Street, Crown Point, Indiana which is the property of Lake County, Indiana, the County agrees to indemnify and hold harmless Daniel Ombac in his personal and official capacity for any and all injuries, damages, medical expenses and any other charges, including attorney's fees which may arise from the use of the steps after their design by Daniel Ombac and the installation by a third party.

This instrument is executed on the 19<sup>th</sup> day of April, 2006.

\_\_\_\_\_  
Commissioner Rudolph Clay

Frances DuPey  
\_\_\_\_\_  
Commissioner Frances DuPey

Gerry J. Scheub  
\_\_\_\_\_  
Commissioner Gerry J. Scheub

Attest:  
Peggy Katona

\_\_\_\_\_  
Lake County Auditor, Peggy Katona

## Order#47 – Agenda #48A

In the Matter of L.C. Building Manager – Seek Proposals for Dishwasher for the L.C. Cafeteria.

Scheub made a motion, seconded by DuPey, to approve the seeking of proposals for the L.C. Building Manager for a Dishwasher for the L.C. Cafeteria and ordered same to be returned by Wednesday, May 17, 2006 by 9:30 a.m. Motion passed 2-0.

## Order#48 – Agenda #48

In the Matter of L.C. Building Manager – Report concerning the installation of the New Power Generator.

Scheub made a motion, seconded by DuPey, to accept and make a matter of public record the L.C. Building Manager's Report concerning the installation of the New Power Generator. Motion passed 2-0.

## Order#49 – Agenda #50C 1

In the Matter of Property Sales: Commissioners Deed for CME Church Metropolitan.

Scheub made a motion, seconded by DuPey, to approve the Commissioners' Deed for CME Church Metropolitan. Motion passed 2-0.

## Order#50 – Agenda #50C 2

In the Matter of Property Sales: Commissioners Deed for Lankford, Ronald.

Scheub made a motion, seconded by DuPey, to approve the Commissioners' Deed for Lankford, Ronald. Motion passed 2-0.

## Order#51 – Agenda #50B

In the Matter of Property Sales: Auction.

Scheub made a motion, seconded by DuPey, to accept and make a matter of public record the date of the Auction on June 13, 2006. Motion passed 2-0.

## Order#52 – Agenda #51

In the Matter of Municipal Real Estate Advisors, Inc. request for the transfer to the City of East Chicago all East Chicago Parcels listed for the Commissioners Tax Certificate Sale on June 13 & 14, 2006.

Scheub made a motion, seconded by DuPey, to defer the Municipal Real Estate Advisors, Inc. request for the transfer to the City of East Chicago all East Chicago Parcels listed for the Commissioners Tax Certificate Sale on June 13 & 14, 2006. Motion passed 2-0.

## Order#53 – Agenda #34

In the Matter of Proposals: L.C. Board of Elections & Registration – moving voting machines to and from the polling sites for the May 2, 2006 Primary Election.

Scheub made a motion, seconded by DuPey, to accept the recommendation of the L.C. Board of Elections & Registration to approve Ferree Movers & Storage and On-Time Transportation with \$26.00 for the 464 machines, \$16.00 for the infinity machines, \$86.00/hour for On-Time Transportation and \$95.00/hour for Ferree Movers & Storage, Inc. Motion passed 2-0.

## Order#54 – Agenda #52

In the Matter of E-9-1-1 – Government Capital Corporation/Spillman Technologies, Inc. in the amount of \$399,770.00.

Scheub made a motion, seconded by DuPey, to approve the E-9-1-1 with Government Capital Corporation/Spillman Technologies Inc. in the amount of \$399,770.00. Motion passed 2-0.

## Order#55 – Agenda #53

In the Matter of Lamar Advertising Company Lease #6155 (IN 3265) – 5<sup>th</sup> Avenue s/s 609 West 5<sup>th</sup> @ Jackson (wall), Gary, IN.

Scheub made a motion, seconded by DuPey, to approve the Lamar Advertising Company Lease #6155 (IN 3265) – 5<sup>th</sup> Avenue s/s 609 West 5<sup>th</sup> @ Jackson (wall), Gary, IN. Motion passed 2-0.



THE  COMPANIES

This Instrument Prepared by:  
Lamar Advertising Company  
1770 West 41<sup>st</sup> Avenue  
Gary, Indiana 46408

Lease #6155  
(formerly IN 3265)  
5<sup>th</sup> Avenue S/S 609 W Jackson (Wall)  
Gary, Indiana

**RENEWAL LEASE**  
(Page 1 of 3)

THIS LEASE AGREEMENT, made this 8<sup>th</sup> day of March, 2006, by and between:  
Lake County Board of Commissioners, 2293 North Main Street Crown Point, Indiana 46307 (hereinafter referred to as "Lessor") and THE LAMAR COMPANIES (hereinafter referred to as "Lessee"), provides

**WITNESSETH**

LESSOR hereby leases to LESSEE, its successors or assigns, as much of the hereinafter described premises as may be necessary for the construction, repair and relocation of outdoor advertising structure, including necessary structures, advertising devices and power poles, with the right of access to and egress from structure by LESSEE'S employees, contractors, agents and vehicles and the right to survey, maintain advertisement, or other activities necessary or useful in LESSEE'S use of the structure to be situated at the approximate location as described in Exhibit A.

The leased premises are a portion of the property located in the Township of Calumet, County of Lake and State of Indiana, more particularly described as:

SEE EXHIBIT A

1. This lease shall be for a term of ten (10) years from May 1, 2006 and ending on April 30, 2016, unless sooner terminated as hereinafter provided. LESSEE shall pay to LESSOR an annual rental of Two Hundred Dollars (\$200.00) payable annually in advance in equal installments of Two Hundred Dollars (\$200.00) each, with the first installment due on the first day of the month following commencement. Rent shall be considered tendered upon due mailing or attempted hand delivery during reasonable business hours at the address designated by LESSOR, whether or not actually received by LESSOR. Should LESSEE fail to pay rent or perform any other obligation under this lease within Thirty (30) days after such performance is due, LESSEE will be in default under the lease. In the event of such default, LESSOR must give LESSEE written notice by certified mail and allow LESSEE Thirty (30) days thereafter to cure any default.

2. LESSOR agrees not to erect or allow any obstruction of highway view or any vegetation that may obstruct the highway view of LESSEE'S advertising structure, obstruction or vegetation at its option.

3. LESSEE may terminate this lease upon giving Thirty (30) days written notice in the event that the advertising structure becomes entirely or partially obstructed in any way, there occurs a diversion of traffic from or a change in the direction of traffic past the LESSEE'S sign, or LESSEE does not receive advertising revenue from the sign for Ninety (90) consecutive days or more. If LESSEE is prevented from maintaining its advertising structure at the leased premises by reason of any final governmental law, regulation, order or other action, this lease will terminate immediately. In the event of termination of this lease prior to expiration, LESSOR will return to LESSEE any unearned rentals on a pro rata basis.

4. If LESSOR accepts rental after the expiration of the term of this Lease, this Lease shall extend on a year-to-year basis. The parties agree that the rental rate for all periods after the expiration of the term of this Lease shall be equal to the rate for the last year of this Lease.

5. All structures, equipment and materials placed upon the premises by the LESSEE shall remain the property of LESSEE and may be removed by it at any time prior to or within a reasonable time after expiration of the term hereof or any extension. At the termination of this lease, LESSEE agrees to restore the surface of the leased premises to its original condition. The LESSEE shall have the right to make any necessary applications with, and obtain permits from, governmental bodies for the construction and maintenance of LESSEE'S advertising structure, at the sole discretion of LESSEE. All such permits shall be the property of LESSEE.

6. LESSOR represents that he is the owner of the premises described above and has the right to grant LESSEE free access to the premises to perform all acts necessary to carry on LESSEE'S business. In the event of any change of ownership of the property hereby leased, LESSOR agrees to notify LESSEE promptly of the name, address, and phone number of the new owner, and LESSOR further agrees to give the new owner formal written notice of the existence of this lease and to deliver a copy thereof to such new owner at or before closing. In the event that LESSEE assigns this lease, assignee will be fully obligated under this lease and LESSEE will no longer be bound by the lease.

Lease # 6155  
(Page 2 of 3)

7. In the event that LESSOR'S property occupied by LESSEE'S structure is sold to a non-related, independent, bona fide purchaser for value as evidenced by a recorded deed or other reasonable evidence at transfer, said third party may terminate this lease upon giving LESSEE six (6) months written notice of termination, within thirty (30) days from the date the third party acquired the property, and upon the refunding to the LESSEE of rent previously paid for the unexpired portion of this lease beyond the termination date. If the third party does not exercise its right to terminate the lease within the aforesaid thirty (30) day period, this entire paragraph shall be considered void and no longer part of the lease. LESSEE agrees to remove its structure within six (6) months from receipt of said notice. The right of termination stated herein shall not exist and cannot be exercised if the demised premises shall be condemned or taken by power of eminent domain, or if the property is conveyed to any entity acting as or on behalf of any public entity which has the power of eminent domain. Additionally, the right of termination shall not exist if this lease is being terminated for the purposes of allowing another outdoor advertising company to construct and operate an outdoor advertising structure on LESSOR'S property that is occupied by LESSEE'S structure.

8. If LESSOR desires to sell or otherwise transfer any interest in the Site and/or the property of which the Site is a part, other than by devise or intestate succession, LESSOR grants LESSEE an option to purchase perpetual easements encompassing the Site and the access, utility service and visibility rights set forth herein. LESSEE must elect to exercise this option within 15 days after notification of LESSOR'S desire to sell. LESSEE'S failure to exercise within said period shall be a waiver of this option. The price for such easements shall be 5 times the previous Lease year's annual rental paid by LESSEE pursuant to the terms hereof. Such easements shall be free and clear of all liens, encumbrances and encroachments. Closing shall be within 30 days of LESSEE'S exercise of this option. If LESSOR does not give LESSEE the aforesaid notice prior to the closing of such sale or other transfer, this option shall continue to attach to the property of which the Site is a part, and LESSEE may exercise its option at any time after becoming aware on its own of such sale or other transfer, or LESSEE may exercise this option within 15 days of LESSEE being notified by LESSOR or purchaser of such sale or other transfer or, at LESSEE'S discretion, LESSEE may exercise its option at any time after otherwise becoming aware of such sale or other transfer. This option shall run with the Site and the LESSEE'S discretion, LESSEE may exercise its option at any time after otherwise becoming aware of such sale or other transfer. This option shall run with the Site and the property of which the Site is a part and applies to all further sales or transfers of the Site and the property of which the Site is a part.

9. The premises are not the homestead of the LESSOR.

10. In the event of condemnation of the subject premises or any part thereof by proper authorities, or relocations of the highway, the LESSOR grants to the LESSEE the right to relocate its structure on LESSOR'S remaining property adjoining the condemned property or the relocated highway. Any condemnation award for LESSEE'S sign structure and leasehold interest shall accrue to LESSEE.

11. LESSEE agrees to indemnify LESSOR from all claims of injury and damages to LESSOR or third parties caused by the installation, maintenance, or dismantling of any advertising structures or displays during the term of this lease and to repair any damage to the leased premises resulting from the installation, maintenance, or dismantling of such advertising structures or displays, less ordinary wear and tear.

12. LESSOR agrees to indemnify LESSEE from any and all damages, liability costs and expenses, including attorney's fees, resulting from any inaccuracy in or nonfulfillment of any representation, warranty or obligation of LESSOR herein.

13. If required by LESSEE, LESSOR will execute and acknowledge a memorandum of lease suitable for recordation.

14. This lease is NOT BINDING UNTIL ACCEPTED by the General Manager of Lamar Advertising Company If The Sign may be updated to an all steel design, or may be modified so as to have, as many advertising faces, including changeable copy faces, and said faces may be of a size and height, all as are allowed by local and state law.

15. The LESSEE shall restrict the advertisings of the following from this location: plumbing contractors, plumbing supply contractors, plumbing supply agents.

16. This lease is NOT BINDING UNTIL ACCEPTED by the General Manager of Lamar Advertising Company.

EXECUTED BY LESSOR IN THE PRESENCE OF:

Notary \_\_\_\_\_ Date \_\_\_\_\_

Commission Expires \_\_\_\_\_ Co. /State \_\_\_\_\_  
BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

*Frances DuBois*

*[Signature]*  
APPROVED THIS 19<sup>th</sup> DAY OF April 20 06

LESSOR:

LESSOR'S SIGNATURE \_\_\_\_\_

2293 Main Street,  
Crown Point, Indiana 46307

LESSOR'S ADDRESS

(219) 755- \_\_\_\_\_  
LESSOR'S TELEPHONE NUMBER

LESSOR'S FEDERAL ID NUMBER

08/05

THE **LAMAR** COMPANIES

"Exhibit A"

Lamar Lease #6155

Lake County Board of Commissioners

Legal Description: Gary Land Company 1<sup>st</sup> Subdivision, All Lot 10 Block 77, All Lot 11 Block 77 & All Lot 12 Block 77

Key/Dup. 25-44-0077-0010

Calumet Township, Lake County, Indiana.

Order#56 – Agenda #54

In the Matter of Resolution of the Board of Commissioners of the County of Lake, Indiana approving the issuance of a first series of Tax Anticipation Warrant for 2006.

Scheub made a motion, seconded by DuPey, to approve the Resolution of the Board of Commissioners of the County of Lake, Indiana approving the issuance of a first series of Tax Anticipation Warrant for 2006. Motion passed 2-0.

**RESOLUTION NO. 06-04  
COUNTY OF LAKE, INDIANA**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE,  
INDIANA APPROVING THE ISSUANCE OF A FIRST SERIES OF TAX  
ANTICIPATION WARRANT OF 2006.**

WHEREAS, on April 11, 2006, the Lake County Council adopted Ordinance No. \_\_\_\_\_ (the "Ordinance") authorizing the issuance of a tax anticipation warrant (the "Warrant") in the principal amount not to exceed \$44,000,000 for the General Fund of Lake County (the "County") for the purpose of paying expenses which must be met prior to the receipt of the December settlement and distribution of taxes payable in 2006; and

WHEREAS, the Board of Commissioners of the County (the "Board") desires to approve the issuance of the Warrant.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE, INDIANA, that the issuance of the Warrant, pursuant to the terms and conditions set forth in the Ordinance, are hereby approved, and that each member of the Board is authorized to take such actions as are necessary to issue the Warrant.

Adopted this 19<sup>th</sup> day of April, 2006.

BOARD OF COMMISSIONERS OF THE  
COUNTY OF LAKE  
FRANCES DUPEY  
GERRY SCHEUB

ATTEST:

PEGGY HOLINGA KATONA, AUDITOR OF LAKE COUNTY

Order#57 – Agenda #55

In the Matter of Cooperation Agreement and Mutual Release with McAllister, Inc. concerning the real estate commonly known as the former Schreiber Oil site at 10601/10690 West 133<sup>rd</sup> Avenue, Cedar Lake.

Scheub made a motion, seconded by DuPey, to approve the Cooperation Agreement and Mutual Release between the L.C. Board of Commissioners and McAllister, Inc. concerning the real estate commonly known as the former Schreiber Oil site at 10601/10690 West 133<sup>rd</sup> Avenue, Cedar Lake. Motion passed 2-0.

COOPERATION AGREEMENT AND MUTUAL RELEASE

This Cooperation Agreement and Mutual Release is made and entered into by and between LAKE COUNTY BOARD OF COMMISSIONERS ("County") and McALLISTER, INC. ("McAllister").

WHEREAS, the County owns the real estate commonly known as the former Schreiber Oil site at 10601/10690 West 133<sup>rd</sup> Avenue, Cedar Lake, Indiana, and legally described as follows:

- A. A part of the Northwest Quarter, Section 28, Township 34 North, Range 9 West of the 2<sup>nd</sup> P.M. in Lake County, Indiana, beginning at a point 762.66 feet West of the Northeast corner of said Northwest Quarter; thence East 124.66 feet, thence South 275 feet, thence West to a point 50 feet East of the N.Y.C. right of way; thence North to the place of beginning, ALSO: a part of the Northwest Quarter of Section 28, Township 34 North Range 9 West of the 2<sup>nd</sup> Principal Meridian, in Lake County, Indiana, to-wit: Beginning at a point 638 feet West of the Northeast corner of said Quarter Section, thence East 50 feet, thence South 375 feet, thence West to a point 50 feet East of the East line of the N.Y.C. right of way, thence Northerly to a point 275 feet South of the North line of said Quarter Section and 50 feet East of the N.Y.C. right of way (East right of way line); thence 100 feet East, thence North 275 feet to the Place of Beginning.
- B. Whose abbreviated legal is Pt. NW. East of R.R. 50x375Ft. .434 AC. S.28 T.34 R9

which real estate is also identified as Tax Key No. 30-24-15-27 and 30-24-0015-0058 (the "Real Estate"); and

WHEREAS, the Real Estate is contaminated with hazardous substances, the nature and extent of which was unknown; and

WHEREAS, due to the contamination, the County has agreed to permit McAllister to go on the property and dispose of the contaminants as required by law; and

WHEREAS, attached hereto is a diagram of the property and a copy of the real property maintenance report; and

WHEREAS, the Town of Cedar Lake wants the property cleaned up and has continually cited owners for violations; and

WHEREAS, IDEM is aware of the contaminated condition of the property and wants it cleaned up; and

WHEREAS, ownership of the property has caused the County in the past to expend money to repurchase the property because of the contamination; and

WHEREAS, the property cannot be sold in its current condition; and

WHEREAS, if the County's interest was not a fee simple absolute but only the ownership of the tax sale certificate there is a procedure that the County could follow to transfer this property after clean up to a grantee; and

WHEREAS, the State of Indiana has liens in excess of \_\_\_\_\_ dollars on the property for prior clean up; and

WHEREAS, the cost of current clean up plus the State clean up liens exceed the value of the property; and

NOW, THEREFORE, as a material inducement to the County to cause McAllister to enter into this Agreement, and for McAllister to enter into this Agreement, and in consideration of the payments required hereby, the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge by all parties, McAllister and the County agree as follows:

1. OBLIGATIONS OF McALLISTER

The obligations of McAllister under the agreement are as follows:

- a. Take any and all necessary steps consistent with Federal and State regulations who enter upon subject property and remove the contaminants which McAllister determines must be removed to obtain any and all environmental permits from Federal or State sources to further develop the property.
- b. McAllister certifies that it has or will obtain the necessary permits or approvals necessary to clean up the property.
- c. The work to be performed by McAllister will include surface work only and be limited to removal of all structures (oil bulk storage tanks, piping, various drums and debris, and vegetative matter) except the 2 derelict buildings, and other work above ground in preparation of possible removal of contamination of soil (estimated as approximately 3 feet). McAllister will dispose of any and all contaminants in accordance with Federal and State law.

- d. McAllister will act as an independent contractor in executing its obligations in the agreement.
- e. McAllister warrants that the company has the capability to remove and dispose of the contaminants in accordance with Federal and State law.

2. OBLIGATIONS OF THE COUNTY

The obligations of the County under the agreement are as follows:

- a. Permit McAllister, Inc. to enter upon the subject property and complete its obligations as outlined in paragraph 1 a through e above.
- b. Upon certification by IDEM that the property meets the applicable standards for clean up as defined by IDEM the County shall transfer the subject real estate to McAllister.
- c. If for any reason the County is unable to transfer the subject property to McAllister the County agrees that McAllister shall be permitted to hold a lien on the subject real property in the amount of the reasonable cost to McAllister of performing its obligations under paragraphs 1 a through e.
- d. Under no circumstances shall the County have any financial obligation to McAllister other than its obligation to recognize the lien of McAllister mentioned in paragraph 2c above.

3. MUTUAL RELEASES

- a. Each of the parties agrees to hold the other harmless from any and all claims, demands, liabilities, obligations, damages, costs and expenses (including experts and attorneys fees), judgments, actions, causes of actions, and suits at law or in equity, of whatever nature, kind, character, extent or duration, arising directly or indirectly out of the performance of their individual obligations under this agreement.
- b. The parties agree that neither is acting as the agent for the other in fulfilling their respective obligations under this agreement.

4. EFFECTIVE DATE AND BINDING OBLIGATION

- a. In addition to the execution of this agreement neither party will take any steps to implement its obligation until each has received written notification from IDEM that that government body will hold the County and McAllister harmless for undertaking their obligations under this agreement.

- b. Notwithstanding any other term or provision of this Agreement to the contrary, McAllister and the County shall be bound and obligated by the terms and provisions of this Agreement, only at such time as this Agreement has been signed by each of them in the places provided below for their respective signatures, and shall be effective as of that date which is the latest date set forth below said signatures (the "Effective Date").

5. COOPERATE WITH IDEM AND LAKE COUNTY SOLID WASTE MANAGEMENT DISTRICT TO IMPLEMENT DISAGREEMENT

- a. Both the County and McAllister recognize and acknowledge that they must cooperate with IDEM and the Lake County Solid Waste Management District to carry out their individual obligations under this agreement. The extent of the cooperation of the County and McAllister will include but not be limited to providing them with access to the property and access to review any documents related to the responsibilities of either the County, McAllister, IDEM and or the Lake County Solid Waste Management district under this agreement or their responsibilities under the law.
- b. The Lake County Solid Waste Management District has already indicated that the district will contact engineering firms and pay for the cost to perform an engineering report as to the remediation necessary to remove the site from a brownfield designation.

Executed and delivered as of the Effective Date.

COUNTY  
The Board of Commissioners of the County of Lake

By: \_\_\_\_\_  
Rudolph Clay, Commissioner

By: Frances DuPey 04/19/06  
Frances DuPey, Commissioner

By: Gerry Scheub  
Gerry Scheub, Commissioner

Date: 04/19/06

Attest: Peggy Katona

\_\_\_\_\_  
Peggy Katona, L.C. Auditor

McALLISTER, INC.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Order#58 – Agenda #56

In the Matter of Resolution concerning the old library building in Cedar Lake.

Scheub made a motion, seconded by DuPey, to approve the Resolution concerning the old library building in Cedar Lake. Motion passed 2-0.

RESOLUTION

WHEREAS, the old library building in Cedar Lake is presently owned by the Lake County Library Board; and  
WHEREAS, the Board of Commissioners of the County of Lake has a governmental use for the property;  
WHEREAS, the Hanover Township Assessor and Hanover Township Trustee have a need for a building in which to place their offices;

NOW, THEREFORE BE IT RESOLVED that the Board of Commissioners, County of Lake does hereby request that the Lake County Library Board deed the old library in Cedar Lake to the Commissioners for the use of the Hanover Township Assessor and Hanover Township Trustee.

THIS RESOLUTION IS ADOPTED THIS 19<sup>TH</sup> DAY OF APRIL, 2006  
BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE  
FRANCES DUPEY  
GERRY J. SCHEUB

ATTEST: PEGGY HOLINGA-KATONA, AUDITOR

Order#59 – Agenda #58

In the Matter of 20 Year Warranty from Gluth, Charles, & Son Roofers, Inc. for the roof at Westwind Manor.

Scheub made a motion, seconded by DuPey, to accept and make a matter of public record the 20 Year Warranty from Gluth, Charles, & Son Roofers, Inc. for the roof at Westwind Manor. Motion passed 2-0.

Order#60 – Agenda #59

In the Matter of Public Hearing in the matter of the issuance of general obligation bonds to finance the cost of a new Highway Maintenance Garage in Lake County, Indiana.

Commissioner DuPey opened the public hearing. She asked if anyone from the public wanted to speak. No one answered so the public hearing was then closed. Scheub made a motion, seconded by DuPey, to approve the Public Hearing in the matter of the issuance of general obligation bonds to finance the cost of a new Highway Maintenance Garage in Lake County, Indiana. Motion passed 2-0.

Order#61 – Agenda #60

In the Matter of the issuance of general obligation bonds to finance the cost of a new Highway Maintenance Garage in Lake County, Indiana Commissioner's preliminary findings and determination to issue general obligation bonds of Lake County.

Scheub made a motion, seconded by DuPey, to approve the issuance of general obligation bonds to finance the cost of a new Highway Maintenance Garage in Lake County, Indiana Commissioner's preliminary findings and determination to issue general obligation bonds of Lake County. Motion passed 2-0.



IN THE MATTER OF THE ISSUANCE  
OF GENERAL OBLIGATION BONDS  
TO FINANCE THE COST OF A  
NEW HIGHWAY MAINTENANCE  
GARAGE IN LAKE COUNTY, INDIANA

**COMMISSIONER'S PRELIMINARY FINDINGS  
AND DETERMINATION TO ISSUE  
GENERAL OBLIGATION BONDS OF LAKE COUNTY, INDIANA**

The Board of Commissioners of the County of Lake (the "County"), having examined the existing condition of the County's highway maintenance garage facilities and having examined preliminary cost estimates for the acquisition, construction, renovation, and/or equipping of a new highway maintenance garage facility, including the cost of issuance of bonds on account thereof, NOW FINDS:

- (1) That the County has a need for the acquisition, construction, renovation, and/or equipping of a new highway maintenance garage facility (the "Facility");
- (2) That the County has insufficient funds available or provided in the existing budgets or tax levies that may be applied to the financing of such Facility, and that it will be necessary to authorize the issuance and sale of general obligation bonds to finance the cost of such Facility;
- (3) That subject to proper action by the Lake County Council and for the purpose of paying the cost of acquisition, construction, renovation, and/or equipping of the Facility, together with expenses incidental thereto, including the cost of issuance of bonds on account thereof, the Board of Commissioners hereby approves and requests the issuance and sale of general obligation bonds of the County, in an aggregate principal amount not to exceed Five Million Dollars (\$5,000,000) (with such final amount to be conclusively determined prior to the closing of the bond issue in accordance with Indiana law and pursuant to the bond ordinance described below);
- (4) That the County has no funds available or provided for in the existing budgets or tax levies that may be applied to the cost of financing the Facility, including related costs as described above, and the Board of Commissioners hereby determines that an emergency and necessity requiring additional appropriations exists, and hereby requests that the

Lake County Council (the "Council"), upon due notice as required by Indiana law, appropriate the proceeds of such general obligation bonds for the cost of financing of the Facility, together with expenses incidental thereto, including expenses related to the issuance of bonds on account thereof;

- (5) That the Council on March 14, 2006, after due notice required by Indiana law, held a public hearing regarding a preliminary determination of the County to issue general obligation bonds and approved the issuance and sale of general obligation bonds of the County, in an aggregate principal amount not to exceed Five Million dollars (\$5,000,000)
- (6) That the Board of Commissioners hereby makes a preliminary determination to issue bonds, in accordance with the provisions of Indiana Code 6-1.1-20.

Adopted by the Board of Commissioners of the County of Lake on this 19th day of April, 2006.

THE BOARD OF COMMISSIONERS OF  
LAKE COUNTY, INDIANA

\_\_\_\_\_  
Commissioner

*Francis D. Key*  
\_\_\_\_\_  
Commissioner

*Greg Schuch*  
\_\_\_\_\_  
Commissioner

ATTEST:

*Peggy DeLuca Kettner*  
\_\_\_\_\_  
Lake County Auditor

Order#62 – Agenda #61

In the Matter of Site Lease with Midwest Telecom of America, Inc.

Scheub made a motion, seconded by DuPey, to approve the Site Lease between the L.C. Board of Commissioners and Midwest Telecom of America, Inc. Motion passed 2-0.

**SITE LEASE**

*CWS.*  
*April* This Lease Agreement (the "Lease") is made and entered into this 19<sup>th</sup> day of ~~March~~, 2006 by and between Lake County Commissioners, an Indiana based Company/Corporation/Government Organization, whose mailing address is 2293 North Main Street, Crown Point, IN 46307, hereinafter referred to as "Lessor", and Midwest Telecom of America, Inc., whose mailing address is 1567 E. 93<sup>rd</sup> Ave. Merrillville, Indiana 46410, hereinafter referred to as "Lessee".

**IT IS HEREBY AGREED** that Lessor will provide Lessee with certain space for installing, housing and operating certain communications equipment, including but not limited to transmitter/receiver base stations, antenna systems, and satellite dishes, and that Lessee will accept such space for such purposes, subject to the following terms and conditions within this lease.

1. **Leased Premises.** Lessor hereby leases to Lessee a portion of that certain parcel of real property, with the buildings and improvements thereon, owned by Lessor and commonly known as Lake County Highway Department Tower, hereinafter referred to as "Site." Specifically, Lessor will lease to Lessee the following, which will be referred to herein as the "Leased Premises".

- A. Tower space for the installation and maintenance of Lessee's antenna and GPS systems (Lessee's equipment) at heights of approximately 450 ft. and 250 ft. distribution and back haul respectively;
- B. Sufficient square feet of interior or exterior building space for housing Lessee's transmitter/receiver base station(s) and UPS(s);
- C. The space to run electrical cable from the main electrical feed point to Lessee's transmitter/receiver base station(s), together with access to Lessor's electrical wiring infrastructure so that Lessee can install the electrical circuit(s) if not already present;
- D. The space for phone lines, with the necessary telephone blocks and the space to route these telephone lines from their demarcation point to Lessee's transmitter/receiver base station(s); and
- E. The space to run cable, including but not limited to phone lines, electrical cable, and coaxial cable, from the cable's source point to Lessee's transmitter/receiver base station(s), its antenna systems and GPS. Lessor agrees to grant to Lessee or to the utility companies as Lessee may designate, a utilities path necessary to serve the Communications Equipment, as identified in Paragraph 2.

2. **Communications Equipment.** Lessee will use the Leased Premises to install, construct, house, operate, maintain, and repair Lessee's equipment. Lessee's equipment may include transmitter base stations, antenna or antenna systems, GPS systems, satellite dish(es), coaxial cable, helix cable, electric cable, telephone lines, HVAC climate control, back-up power and an electric meter or sub meter. This equipment will hereinafter be referred to as the "Communications Equipment". Lessee will have the right to add, remove or substitute equipment should the need arise, including installation of an equipment shelter if interior space is not available, provided Lessee pays all costs associated therewith. Lessee will retain title to all its Communications Equipment.

3. **Term.** This Lease will continue for a term of one year (1) Year commencing on April 15th, 2006, hereinafter referred to as the "Commencement Date". Lessee will be granted the option to renew this site lease, in (1) year terms, 3 consecutive times beyond the original one (1) Year term.

4. **Rent.** Commencing April 15th, 2006, Lessee will pay rent to Lessor in the monthly amount of \$150.00 (One Hundred Fifty Dollars) or \$1,800.00 (One Thousand Eight Hundred Dollars) annually for the original one (1) Year term of this lease for the right to attach two (2) standoff mounts to the Lake County Highway Department Tower, with no more than (3) three separate transmitters or antenna arrays attached to said mounts. Additionally, any future transmitters or antenna arrays placed on the existing mounts located on the leased premises (Tower) beyond (3) will also be at a cost of \$50.00/transmitter or antenna array/month on the first day of each calendar month, and prorated for partial months. In the event that Lessee removes or adds a transmitter or antenna array, said rent will be reduced or increased accordingly. Monthly Lease payments for any renewal terms will be calculated as follows:  $(\$150.00 + \text{additional monthly cost for any additional transmitters or antenna arrays beyond the 3 original transmitters or antenna arrays}) = (\text{monthly rent for any renewal period})$

5. **Access to the Leased Premises.** Lessee will have the right of access to the Site and Leased Premises, twenty-four (24) hours a day, seven (7) days a week as may be required for Lessee to access, install, construct, house, operate, maintain, repair, replace, protect, or secure the Communications Equipment and otherwise exercise the rights granted herein. Lessor will at all times during the term of this Lease provide Lessee with the name and telephone number of the person responsible for giving Lessee access to the Site or supply any keys, pass codes or key cards necessary to enter the leased premise as needed on Lessee's own schedule.

6. **Utilities.** Lessor will be solely responsible for and will promptly pay all charges for electricity and HVAC at the Leased Premises. Lessee will be solely responsible for and will promptly pay all charges for the installation and use of its telephone service at the Leased Premises.

7. **RF Compliance.** Lessee will maintain its equipment in compliance with the FCC guidelines. The Lessor agrees to restrict access to the premises and allow the posting of warning signs as specified in any routine evaluation that may be performed by Lessee, if required by the FCC. Lessor shall require all parties located at the site, including newly located lessees, to notify Lessor of the installation of or change or modification to equipment located on the Site so that Lessor can continue to maintain the Site in compliance with such applicable laws, rules and regulations.

8. **Radio Frequency and/or Electrical Interference.** (a) Lessee will not cause radio frequency and/or electrical interference to the existing equipment of Lessor or to any other tenant who is using the Site upon the earlier of the Commencement Date or at the time Lessee installs its Communications Equipment, provided that the equipment used by Lessor or other Lessee is operating within the technical parameters specified by its manufacturer and/or as defined by the FCC. Upon written notice from Lessor to Lessee of such interference, Lessee will take all reasonable steps to correct such interference in a timely manner. If such interference cannot be reasonably corrected within five (5) business days from receipt of Lessor's notice, Lessee will cease using its Communications Equipment, except for testing, until such time as Lessee corrects the interference. In the event Lessee cannot correct the interference, Lessee will have the option to terminate this Lease without further liability hereunder, upon thirty (30) days written notice to Lessor.

(b) After the date of this Lease, Lessor will not grant use to any other party for use of the Site or modify an existing lease for the use of the Site, or change its use of the Site or permit an existing tenant to make any changes to its use of the Site, if such use would in any way adversely affect or interfere with the operation of Lessee's Communications Equipment. If Lessor or its agents, employees or other tenants of Lessor's Site causes uncorrected radio frequency and/or electrical interference with Lessee's Communications Equipment, Lessor will correct the interference or require its tenant to do so. If the interference cannot be corrected within five (5) business days from receipt of Lessee's notice, Lessor will cause the party creating the interference to cease using its equipment, except for testing, until the interference has been corrected.

(c) Lessor will include non-interference terms similar to those in (a) above in all future agreements for use of the Site.

9. **Notice.** Any notice or demand required or permitted to be given hereunder will be sufficiently given if made by regular, registered, certified mail, postage prepaid, or return receipt requested, overnight courier, or hand delivery addressed to the other party at the address set forth herein. Any such notice or demand will be deemed to have been made three (3) business days after it is postmarked in the United States Postal Service, if by mail, the next business day if by overnight courier, and upon receipt if by hand delivery. Either party may from time to time designate any other address for this purpose by giving written notice thereof to the other party.

If to Lessor:

Lake County Commissioners

2293 North Main Street Crown Point, IN

46307

Attn: John S. Dull Lake County/  
Lake County Commissioners Attorney  
Phone: 219-755-3058

Fax: 219-648-6138

If to Lessee:

Midwest Telecom of America, Inc.

1567 East 93<sup>rd</sup> Ave. Merrillville, IN

46410

Attn: Cary W. Smith / President

Phone: 219-650-5555

Fax: 219-650-5545

10. **Liability and Indemnity.** Lessee agrees to indemnify and hold the Lessor harmless from any loss, damage, cost, expense or claims which Lessor may incur as a result of Lessee's breach of this Lease, or any negligent act of Lessee, or of its agents and employees, arising from or related to this Lease. Lessor agrees to indemnify and hold Lessee harmless from any loss, damage, cost, expense or claims which Lessee may incur as a result of Lessor's breach of this Lease, or any negligent act of Lessor, or of its agents, employees, or other Lessees arising from or related to this Lease.

11. **Defaults and Remedies.** Failure by either party to perform any obligation under this Lease will not constitute default unless the non-defaulting party gives the defaulting party prior written notice of such failure, and the defaulting party fails to correct such failure within thirty (30) days of that notice; provided, however, that if any such default cannot reasonably be cured within thirty (30) days, there will be no default if the defaulting party commences to cure such default within the thirty (30) day period and thereafter diligently pursues such cure to completion within sixty (60) days after such notice.

In the event of a default as provided above, the non-defaulting party, in addition to any other rights it may have at law or in equity, will have the right to terminate this Lease upon ten (10) days prior written notice.

12. **Taxes.** Lessor will be responsible for the declaration and payment of any real estate taxes assessed against the Site. Lessee will pay any taxes which are assessed against Lessee or its Communications Equipment or its other personal property located at the Site, provided Lessor gives Lessee timely prior written notification of any such taxes so that Lessee will have an opportunity to appear before the taxing authority to contest such taxes.

13. **Insurance.** Lessee will secure and maintain during the term of this Lease, at its sole cost and expense, a policy of general liability insurance, on an occurrence basis, in the amount of one million dollars (\$1,000,000.00) combined single limit for bodily injury and/or property damage.

14. **Environmental Indemnification.** (a) Lessor will defend, indemnify and hold harmless Lessee from and against any and all losses, claims, liabilities, damages, demands, fines, costs and expenses (including reasonable legal expenses) of whatever kind and nature that Lessee may incur as a result of the presence on, in, or under the Site of any hazardous materials, hazardous substances, hazardous wastes, pollutants, asbestos, PCBs, petroleum or other fuels (including crude oil or any extraction or derivative thereof) of USTs.

(b) Lessee will defend, indemnify and hold harmless Lessor from and against any and all losses, claims, liabilities, damages, demands, fines, costs and expenses (including reasonable legal expense) of whatever kind and nature that Lessor may incur as a result of the release by Lessee on, in, or under the Site of any hazardous materials, hazardous substances, hazardous wastes, pollutants, asbestos, PCBs, petroleum or other fuels (including crude oil or any extraction or derivative thereof) or USTs. Such release by Lessee will be demonstrated by clear and convincing evidence.

15. **Condition of Leased Premises.** Lessor will furnish the Site, including the Leased Premises, to Lessee in good condition and repair and will maintain the Site in good condition and repair during the term of this Lease. Upon expiration, cancellation, or termination of this Lease, Lessee will remove its Communications Equipment from the Leased Premises and will surrender the Leased Premises in substantially the same condition as received, ordinary wear and tear and damages to the Leased Premises due to causes beyond Lessee's control accepted.

16. **Assignment.** Upon Lessor's written consent, which will not be unreasonably withheld, Lessee will have the right at any time to assign this Lease or to sublet the Leased Premises, except that Lessee may, without Lessor's consent, assign this Lease or sublet the Leased Premises to any corporation which is a parent, subsidiary or affiliate of Lessee or which is acquiring fifty one Percent (51%) or more of all the assets or stock of Lessee. For the purposes of this Provision, a "parent" will mean a corporation which owns not less than fifty-one percent (51%) of the outstanding stock of Lessee, a "subsidiary" will mean any corporation not less than fifty-one percent (51%) of whose outstanding stock will be owned by Lessee, and an "affiliate" will mean any corporation not less than fifty-one percent (51%) of whose outstanding stock will be owned by Lessee's parent. Upon such assignment or subletting, Lessee will be relieved of all obligations hereunder and the assignee or subtenant will succeed to all obligations, rights and options (including renewal options) of Lessee. Lessor will look solely to the assignee or subtenant for the performance of all obligations hereunder.

17. **Governmental Approvals.** Lessor represents and warrants that the Site, and any improvements thereon, comply with all applicable laws, ordinances, rules and regulations of any municipal, state or federal government having jurisdiction over the Site, including but not limited to zoning and building codes. Lessor further represents and warrants that there are no outstanding or pending notices of violation issued against the Site as of the date of this Lease that would prevent, or otherwise interfere with, Lessee's intended use of the Site.

Lessee will at all times comply with all laws, ordinances, rules and regulations of municipal, state, and federal governmental authorities relating to the installation, maintenance, height, location, use, operation, and removal of its Communications Equipment, and other alterations or improvements authorized herein. Lessee, at its expense, will be responsible for obtaining and maintaining all permits or approvals required by governmental or regulatory agencies arising out of Lessee's intended use of the Site. Lessor agrees to fully cooperate with Lessee in obtaining such permits and approvals and, without limiting the generality of the foregoing, to execute any applications, maps, certificates or other documents that may be required in connection with the permits and approvals, with all expenses to be paid by Lessee.

18. **Relocation of Communications Equipment.** Without Lessee's prior written consent, Lessor will not require Lessee to relocate its Communications Equipment at the Site in any way that will cause deterioration of Lessee's normal operations or require prior approval of the Federal Communications Commission. Any such relocation will be at Lessor's sole expense.

19. **Marking and Lighting Requirements.** If applicable, Lessor will provide Lessee with the FCC/FAA Structure Registration Number and a copy of the registration certificate. Lessor acknowledges that it will be responsible at Lessor's sole cost and expense, for compliance with all building marking and lighting requirements that the Federal Aviation Administration ("FAA") may require regardless of Lessee's intended use of the Site. Lessor will indemnify and hold harmless Lessee from any fines or other liabilities caused by Lessor's failure to comply with such requirements. Further, should the FAA cite Lessee or in the event any claims are brought against Lessee because the Site is not in compliance, Lessor will indemnify Lessee for all costs, liabilities, damages and expenses, including reasonable attorney's fees. Further, if Lessor does not cure the conditions of noncompliance within the time period allowed by the citing agency, Lessee, in addition to all of its other remedies, may terminate this Lease immediately without any further liability hereunder upon written notice to Lessor.

20. **Quiet Enjoyment.** Lessor covenants that Lessee will, upon paying the rent and observing the other covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy the Leased Premises during the initial term or any renewal term of this Lease, without hindrance or ejection by the Lessor, any person or persons claiming under the Lessor or any other tenant of the Lessor.



21. **Representations and Warranties.** Lessor represents and warrants (a) that it is the owner of the Site in fee simple, unencumbered by any lien, agreement, mortgage, condition or covenant that would adversely affect lessee's use of the Leased Premises pursuant to this Lease; and (b) that it is duly organized, validly existing and in good standing and has all the rights, powers and authority to make this Lease and bind itself through the party set forth below as signatory of Lessor.

Lessee represents and warrants that it is duly organized, validly existing and in good standing and has all the rights, powers and authority to make this Lease and bind itself through the party set forth below as signatory of Lessee.

22. **Destruction or Condemnation of Site.** If the Site, in whole or in part, is damaged by fire or other casualty so as to prevent Lessee's use of the Leased Premises and Lessor cannot repair the Site within thirty (30) days after the date of damage Lessee will have the option to terminate this Lease, without any further liability hereunder, upon written notice to Lessor. In the event of partial destruction of the Site, Lessee will be entitled to a rent abatement until Lessor completes and repairs and Lessee is able to resume use of the Leased Premises.

If a proceeding is instituted by any governmental authority pursuant to which the Site, in whole or in part, is proposed to be taken or condemned, Lessee will have the option to terminate this Lease at any time thereafter during the pendency of such proceeding without further liability hereunder, upon thirty (30) days written notice to Lessor. Lessee may, at its own expense, make a claim in any condemnation proceeding involving the Site for losses related to Lessee's Communications Equipment and relocation costs.

23. **Consent.** Whenever under the Lease, the consent or approval of either party is required or a determination must be made by either party, no such consent or approval will be unreasonably withheld or delayed, and all such determinations will be made on a reasonable basis and in a reasonable manner.

24. **Entire Agreement and Binding Effect.** This Lease and any attached SCHEDULES, signed or initialed by the parties, constitute the entire agreement between Lessor and Lessee and shall supersede all prior offers, negotiations and agreements; no prior written or contemporaneous oral promises or representations will be binding. The undersigned have full power and authority to bind their principals to this Lease. This Lease will not be amended, or changed except by written instrument signed by both parties hereto. If any clause or provision of this Lease is found to be invalid and unenforceable with respect to any party, the remainder of this Lease will not be affected and will remain valid and enforceable. Paragraph captions herein are for convenience only, and neither limits nor amplify the provisions of this Site Lease.

The provisions of this Lease will be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, transferees, and permitted assignees.

25. **Choice of Law.** The Lease will be governed and construed by the laws of the State of Indiana.

26. **Confidentiality.** All information contained within this "Site Lease" and "Exhibit A" is considered confidential and may not be shared by Lessor, for any reason whatsoever, with any party, without the express written permission to do so from Lessee. Lessee reserves the right to terminate this lease upon obtaining any information that Lessor violated said confidentiality of any information contained in Exhibit A with or without notice to the Lessor. Lessor agrees to hold Lessee harmless and no longer responsible for fulfillment of any obligation regarding this lease agreement. Lessee furthermore reserves any other rights it may have at law or in equity to pursue Lessor for damages resulting from such violation of confidentiality.

LESSOR: \_\_\_\_\_

BY: Board of Commissioners of the County of Lake

NAME: *Darryl Schuck*

*Frances DuPuy*

TITLE: *Commissioner*

DATE: *4-6-06*

LESSEE: **Midwest Telecom of America, Inc.**

BY: *Cary W. Smith*

NAME: Cary W. Smith

TITLE: President

DATE: *04/11/06*

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

*Frances DuPuy*

*Darryl Schuck*

APPROVED THIS *11* DAY OF *April* 20*06*

**EXHIBIT A**

**SITE:** Crown Point, IN.

**LESSOR:** Lake County Commissioners

**ANTENNA SYSTEM**

Antenna Make: Sky Pilot System™, Redline Communications

Antenna Model: Sky Gateway™, Redline Communications RDLA2804MTF 2 ft. flat panel

Height on Tower (to base): Approximately 100ft. to 150ft

Type of Mount: Stand off two arm mount.

Cable Size/Type/Length: Ethernet cable/cat 5 or 7/ unknown or IF Cable RG-6

**TRANSMITTER**

Manufacturer: Sky Pilot, Redline

Models: Sky Gateway™, Redline AN 50e

Operating Frequency(s): 5.8 GHz Range, 2.4 GHz Range, 5.4 GHz range (Future) & Potential Licensed Frequencies in the future.

Power Source: PoE/24VDC (Sky Pilot), 110-240 VAC

Cabinet Size: N/A

Output Power: 18dbi/44.5 dBm EIRP (Sky Pilot), 20 dBm EIRP

**SATELLITE RECEIVER**

Antenna Manufacturer – N/A

Model - N/A

Operating Frequency – N/A

Location – N/A

Type of Mount – N/A

Cable Size/Type/Length – N/A

**GPS RECEIVER**

Antenna – Built into transmitter unit (Sky Pilot), Separate Unit (Redline).

Connecting Cable – required for Redline

Location – near bottom of the tower for the Redline unit if used

## Order#63 – Agenda #62

In the Matter of Purchase of new mail machines for the East Chicago, Gary and Hammond Courthouses.

Scheub made a motion, seconded by DuPey, to approve and make a matter of public record the Purchase of new mail machines for the East Chicago, Gary and Hammond Courthouses. Motion passed 2-0.

## Order#64 – Agenda #64 A&amp;B

In the Matter of Review and Approval of L.C. Board of Commissioner's Minutes of Regular Meeting, Wednesday, January 18, 2006 and Joint Meeting, Friday, February 3, 2006.

Scheub made a motion, seconded by Clay, to approve the L.C. Board of Commissioner's Minutes of Regular Meeting, Wednesday, January 18, 2006 and Joint Meeting, Friday, February 3, 2006. Motion passed 2-0.

## Order#65 – Agenda #65

In the Matter of Poor Relief Decisions.

Scheub made a motion, seconded by DuPey, to approve and make a matter of public record the following Poor Relief Decisions. Motion passed 2-0.

|                     |  |
|---------------------|--|
| Reginald Gordon     | -Approved.   |
| Debora Hunt         | -Approved.   |
| Julia Jenkins       | -Denied.   |
| Tamika Dorris       | -Approved.   |
| Loretta Martin      | -Approved.   |
| Cleveland Simms     | -Approved on condition.  |
| Amos Petterson      | -Denied.   |
| Latanza Clay        | -Approved.   |
| Gloria Wright       | -Approved on condition.  |
| James Graham        | -Approved on condition.  |
| Christine Johnson   | -Approved on condition.  |
| Joanne Gamble       | -Approved on condition.  |
| Yolanda Collins     | -Approved.   |
| Mary Ridgell        | -Approved on condition.  |
| Janet Gallistel     | -Denied.   |
| Veronica Gonzalez   | -Approved. Remanded to township for further consideration and review.  |
| Shalonda Edwards    | -Approved on condition.  |
| Raymond Little      | -Approved.   |
| Telethia Barrette   | -Approved on condition.  |
| Rosewell Bibb       | -The township shall lift the 60 day penalty for failure to comply with I.C. 12-20-6.5 on condition that appellant show the township proof of compliance. |
| Bennie Williams     | -Approved.   |
| Melvin Dunigan      | -Denied.   |
| Eva Pinckney        | -Approved.   |
| Marsha Ford         | -Approved.   |
| Mildred Buirse      | -Approved on condition.  |
| Noemi Pena          | -Approved.   |
| Tashell Freeman     | -Approved.   |
| Rose Perez          | -Approved on condition.  |
| Roberta Jennings    | -Approved on condition.  |
| Jennie Newell       | -Approved.   |
| Marie Butts         | -Approved on condition.  |
| Roxanna Nichols     | -Approved.   |
| Tanguray Ford       | -Approved. Approved on condition.  |
| Ella Brewer         | -Denied.   |
| Paree Davis         | -Approved.   |
| Michelle Murray     | -Approved.   |
| Anna Clark          | -Denied.   |
| Brandy Mathews      | -Approved. Denied.   |
| Rene Edmonds        | -Approved on condition. Denied.  |
| Ronald Kelley       | -Approved.   |
| Lynette Hamilton    | -Approved. Denied.   |
| Jermaine Horton     | -Approved on condition.  |
| Wendy Ratliff       | -Approved.   |
| Sandra Cole         | -Approved.   |
| Sabrina Lemon       | -Approved on condition.  |
| Patricia Flemming   | -Approved.   |
| Gary Ward           | -Approved.   |
| Henrietta Limehouse | -Approved.   |
| Bruce Wiggins       | -Denied.   |
| Regina Mckinzie     | -Approved.   |
| Jim-Alla Hinton     | -Approved on condition.  |
| Fannie Holmes       | -Approved.   |
| Shamika Patterson   | -Approved on condition.  |
| Dora Franklin       | -Approved.   |
| S. Pullen           | -Denied for appellant's failure to appear.   |
| M. Hackett          | -Denied for appellant's failure to appear.   |
| M. Cody             | -Denied for appellant's failure to appear.   |
| I. McClain          | -Denied for appellant's failure to appear.   |
| F. Townsend         | -Denied for appellant's failure to appear.   |
| V. Jackson          | -Denied for appellant's failure to appear.   |
| M. Long             | -Denied for appellant's failure to appear.   |

## Order#65 – Agenda #65 (Cont'd)

|                    |  |
|--------------------|--|
| C. Pruitt          | -Denied for appellant's failure to appear.   |
| William Washington | -Approved on condition.  |
| Bellam Cole        | -Approved.   |
| Shirley Payne      | -Denied.   |
| Charles Scott      | -Approved.   |
| Annette Cardine    | -Denied.   |
| Nathaniel Pitts    | -Approved.   |
| Rhonda Anderson    | -Approved.   |
| Julie Britton      | -The Township shall lift the 60 day penalty for failure to comply with I.C. 12-20-6.5 on condition that appellant show the township proof of compliance. |
| Kelley McDade      | -Approved on condition.  |
| Maletha Heath      | -Approved.   |
| S. Exom            | -Denied for appellant's failure to appear.   |
| K. Williams        | -Denied for appellant's failure to appear.   |
| N. Gavin           | -Denied for appellant's failure to appear.   |
| R. Appleton        | -Denied for appellant's failure to appear.   |
| L. Winborne        | -Denied for appellant's failure to appear.   |
| G. Guzman          | -Denied for appellant's failure to appear.   |
| Patricia Hart      | -Remanded to township for further consideration and review.  |
| Lacretia Walker    | -Approved on condition.  |
| Alvira Bravo       | -Approved on condition.  |
| Cassandra Kelley   | -Approved on condition.  |
| Cosetta Dumas      | -Approved on condition.  |
| Joseph Bryant      | -Denied.   |
| Lorice Wilkons     | -Approved. Denied.   |
| Sherrie Hayden     | -Approved.   |
| Michelle Johnson   | -Denied.   |
| Jeffery Humphrey   | -Approved.   |
| Michael Coleman    | -Denied.   |
| Phyllis Shaffer    | -Approved on condition.  |
| Freeman Backus     | -Approved on condition.  |
| C. Jones           | -Denied for appellant's failure to appear.   |
| C. Wheatley        | -Denied for appellant's failure to appear.   |
| M. Hunter          | -Denied for appellant's failure to appear.   |
| J. Kenney          | -Denied for appellant's failure to appear.   |
| M. Hobson          | -Denied for appellant's failure to appear.   |
| A. Taylor          | -Denied for appellant's failure to appear.   |
| Tilemenia Rayster  | -Denied.   |
| Jerome Spears      | -Approved. Denied.   |
| Dionne Smith       | -Approved on condition.  |
| Erica Mitchel      | -Approved.   |
| Corinne Acoff      | -Approved.   |
| Willie Herron      | -Approved.   |
| Donald Scroogins   | -Approved on condition.  |
| Angelique Aponte   | -Approved.   |
| Beverly Williams   | -Approved on condition.  |
| Thelma Cooper      | -Approved on condition.  |
| Gladys Taylor      | -Approved.   |
| Bertha Parish      | -Approved.   |
| Bobby Freeman      | -Approved on condition. Utilities in excess of township guidelines is approved up to \$175 per month with hardship shown through N/A.                    |
| Robyne Fuqua       | -Approved. Denied.   |
| J. Tyler           | -Denied for appellant's failure to appear.   |
| M. Gordon          | -Denied for appellant's failure to appear.   |
| V. Cobb            | -Denied for appellant's failure to appear.   |
| G. Cullom          | -Denied for appellant's failure to appear.   |
| Annie Byrd         | -Approved on condition.  |
| Darrel Scott       | -Denied.   |
| Victoria Sutton    | -Approved; Remanded to township for further consideration and review.  |
| Edward Thompson    | -Prescriptions in excess of township guidelines is approved up to \$150 per month with hardship shown through N/A.                                       |
| Therion Johnson    | -Approved.   |
| Barbara Gibson     | -Approved.   |
| Sandra Lewis       | -Approved.   |
| Mary Tolbert       | -Approved on condition.  |
| Jessica Greenley   | -Approved.   |
| Grace Cistrunk     | -Approved. Denied.   |
| Geraldine Fields   | -Approved.   |
| Johnnie Borom      | -Approved. Utilities in excess of township guidelines is approved up to \$150 per month with hardship shown through N/A.                                 |
| D. Starks          | -Denied for appellant's failure to appear.   |
| A. Holden          | -Denied for appellant's failure to appear.   |
| M. Rodriguez       | -Denied for appellant's failure to appear.   |
| Bernard Byndum     | -Approved.   |
| Britton Mills      | -Approved on condition.  |
| Tanya Thomas       | -Denied.   |
| Stephen Jones      | -Approved.   |
| Julia Bryant       | -Approved.   |
| Stephanie Atkinson | -Approved.   |
| Bertha Parish      | -The Township shall lift the 60 day penalty for failure to comply with I.C. 12-20-6.5 on condition that appellant show the township proof of compliance. |
| Eddie Greene       | -Approved on condition.  |
| Kesha Robertson    | -Approved.   |
| Mary Curtis        | -Approved.   |

## Order#65 – Agenda #65 (Cont'd)

|                    |  |
|--------------------|--|
| Beverly Johnson    | -Approved.   |
| Jaquelyn Parker    | -Approved.   |
| Roshanda Harding   | -Approved.   |
| G. Reed            | -Denied for appellant's failure to appear.   |
| R. Washington      | -Denied for appellant's failure to appear.   |
| J. Swanson         | -Denied for appellant's failure to appear.   |
| Q. Taylor          | -Denied for appellant's failure to appear.   |
| K. Newman          | -Denied for appellant's failure to appear.   |
| S. MacEntire       | -Denied for appellant's failure to appear.   |
| M. Harrison        | -Denied for appellant's failure to appear.   |
| Camille Dickerson  | -Approved. Denied.   |
| Rene Edmonds       | -Approved on condition. Denied.  |
| Priscilla Green    | -Approved on condition.  |
| George Reynolds    | -Approved.   |
| Bonnie Calhoun     | -Approved.   |
| Cynthia Gibson     | -Approved on condition.  |
| April Crump        | -Approved on condition.  |
| Vera Jones         | -Approved on condition.  |
| Tasha Holmes       | -Approved. Denied.   |
| Naida Doppler      | -Approved on condition. Denied.  |
| Walterine Wheeler  | -Approved.   |
| Marqueza Price     | -Approved.   |
| Alvetta Drumwright | -Approved.   |
| Michael Woodson    | -Denied.   |
| Anna Graud         | -Prescriptions in excess of township guidelines is approved up to \$175 per month with hardship shown through N/A.                   |
| Lola Baggette      |  |
| D. Love            |  |
| A. Neal            |  |
| B. Mosley          |  |
| T. Parson          |  |
| Angel Flores       | -Approved on condition.  |
| Hector Ocasio      | -Approved.   |
| Susie Segura       | -Approved.   |
| Felicia Pillow     | -Utilities in excess of township guidelines is approved up to current monthly with hardship shown through N/A.                       |
| Terry Hamer        | -Approved.   |
| Phyllis Spurlock   | -Approved. Remanded to township for further consideration and review.  |
| Roy Taylor         | -Approved.   |
| Janyth Jones       | -Approved.   |
| Tyrone Rowe        | -Approved. Denied.   |
| Regina Taylor      | -Approved.   |
| Robin Madry        | -Approved. Denied.   |
| Yula Lee           | -Approved on condition.  |
| Juanita Morales    | -Utilities in excess of township guidelines is approved up to \$200 per month with hardship shown through N/A.                       |
| Rosemary Fisher    | -Approved.   |
| Lydia Colzada      | -Denied for appellant's failure to appear.   |
| Henrietta McCarty  | -Approved. Approved on condition.  |
| Sharon Woodard     | -Approved.   |
| Celestine Robinson | -Approved.   |
| Rosalynn Peeler    | -Approved. Denied.   |
| LeBarron Burton    | -Approved.   |
| Janice Brown       | -Approved.   |
| Broderick Morgan   | -Approved.   |
| Tanya Curtis       | -Approved.   |
| Jacquelynn Redmon  | -Approved on condition.  |
| Rose Gardner       | -Approved on condition.  |
| Jawanna Rouson     | -Approved on condition.  |
| Angela Smith       | -Approved. Denied.   |
| Beverly Gore       | -Approved.   |
| Perez Liguacci     | -Approved.   |
| T. Crisley         | -Denied for appellant's failure to appear.   |
| M. Nunn            | -Denied for appellant's failure to appear.   |
| Elaine Willis      | -Approved. Utilities in excess of township guidelines is approved up to \$100 per month with hardship shown through N/A.             |
| Delores Barnes     | -Approved.   |
| Ozell Fuller       | -Approved on condition.  |
| Mary Clay          | -Approved.   |
| Shon Britton       | -Approved. Denied.   |
| Judyetta Ambrose   | -Approved.   |
| William Jones      | -Approved.   |
| Andrea Johnson     | -Approved. Denied.   |
| Tanya Franklin     | -Approved. Denied.   |
| Rickie Ammons      | -Approved.   |
| Willie Hines       | -Approved. Prescriptions in excess of township guidelines is approved up to \$150 per month with hardship shown through N/A. Denied. |
| Elizabeth Dowery   | -Approved.   |
| Charles Over       | -Denied for appellant's failure to appear.   |
| S. Murphy          | -Denied for appellant's failure to appear.   |
| Trisha Johnson     | -Denied for appellant's failure to appear.   |
| Florene Khan       | -Approved. Approved on condition. Denied.  |
| Annie Golden       | -Approved.   |
| Jessie Grimes      | -Approved.   |

## Order#65 – Agenda #65 (Cont'd)

|                      |  |
|----------------------|--|
| Antionette McCollum  | -Approved. Denied.   |
| Glenda Johnson       | -Approved.   |
| Kimberly Heflin      | -Approved.   |
| Collette Chambers    | -Approved.   |
| Gayle Alford         | -Approved.   |
| Minnie Brazall       | -Approved.   |
| Sara Clayton         | -Approved.   |
| Clara Brooks         | -Approved.   |
| Robert Nichols       | -Approved.   |
| Gregory Spann        | -Approved.   |
| Johnnie Walker       | -Approved.   |
| Diane Graham         | -Approved.   |
| Caroline Love        | -Approved.   |
| Dominique Washington | -Approved.   |
| Yolanda Morris       | -Approved.   |
| Stephanie Robinson   | -Approved.   |
| Debora Hunt          | -Approved. Approved on condition.  |
| Balinda Anderson     | -Approved. Prescriptions in excess of township guidelines is approved up to \$300 per month with hardship shown through N/A. |
| Mary Green           | -Prescriptions in excess of township guidelines is approved up to \$150 per month with hardship shown through N/A.           |
| Jaundalyn Goodwin    | -Approved.   |
| Tawana Edwards       | -Approved.   |
| Salina Lange         | -Approved.   |
| Talitha Irby         | -Approved.   |
| Maurie Dunn          | -Denied.   |
| Y. Abrams            | -Denied for appellant's failure to appear.   |
| Susan Exom           | -Approved.   |
| Naomi Gavin          | -Approved.   |
| Darrell Starkes      | -Approved.   |
| Larry McClinton      | -Approved on condition.  |
| Devora Gill          | -Approved.   |
| Linda McDaniel       | -Denied.   |
| Brandy Westbrook     | -Approved.   |
| Margarette Ward      | -Approved.   |
| Sharon Drinkard      | -Approved.   |
| W. Jackson           | -Denied for appellant's failure to appear.   |
| A. Washington        | -Denied for appellant's failure to appear.   |
| F. Jackson           | -Denied for appellant's failure to appear.   |
| K. Hutchins          | -Denied for appellant's failure to appear.   |
| D. Moore             | -Denied for appellant's failure to appear.   |
| W. Davis             | -Denied for appellant's failure to appear.   |

## Order#66 – Agenda #66

In the Matter of Lake County Expense Claims to be Allowed on Wednesday, April 19, 2006.

The Board hereby orders Commissioners Allowance of Lake County Expense Claims of Wednesday, April 19, 2006. to be paid out of the County Treasury upon the Warrant of the County Auditor according to the Lake County Claim Docket on file in the Auditor's Office.

Scheub made a motion, seconded by DuPey, to approve and make a matter of public record the Claims and Docket. Motion passed 2-0.

## Order#67 – Agenda #67

In the Matter of Vendor Qualification Affidavits.

Scheub made a motion, seconded by DuPey, to approve the following Vendor Qualification Affidavits. Motion passed 2-0.

GARZA MAINTENANCE & CONSTRUCTION  
 HENN AND SONS CONSTRUCTION  
 HOOK'S CONCRETE & CONST. CO., INC.  
 S G I  
 SMITH AND REED, INC.  
 RPS IMAGING, INC.  
 PROPAC, INC.  
 UNIQUE PAVING MATERIALS CORP.  
 COURT REPORTERS OF AKRON, CANTON & CLEVELAND  
 JAMES E. AIKEN & ASSOCIATES, INC.  
 KOSTELNY, KATHLEEN  
 SEE, CHARLES  
 ADVANTAGE SIGN SUPPLY, INC.  
 J.G. UNIFORMS, INC.  
 OGBARA, TAJUDEEN MD SC  
 STATE AUTO BODY, INC.  
 WHITHAM SALES & SERVICE, INC.  
 YES DISTRIBUTORS, INC.  
 SUBWAY  
 MIDWEST BUSINESS & ECONOMIC RESEARCH GROUP LLC

## Order#68 – Agenda #63

In the Matter of Hermits Lake Sewer District Keystone Software Systems quote for key-billing for windows program license.

Scheub made a motion, seconded by DuPey, to approve the Hermits Lake Sewer District Keystone Software Systems quote for key-billing for windows program license. Motion passed 2-0.

## Order#69 – Agenda #63A

In the Matter of L.C. Board of Commissioners - Agreement to provide Professional Consulting Services to Lake County, Indiana with Maximus, Inc. in an amount not to exceed \$16,875.00 for each cost allocation plan and association services.

Scheub made a motion, seconded by DuPey, to approve the Agreement to provide Professional Consulting Services to Lake County, Indiana between the L.C. Board of Commissioners and Maximus, Inc. in an amount not to exceed \$16,875.00 for each cost allocation plan and association services. Motion passed 2-0.

**AGREEMENT TO PROVIDE  
PROFESSIONAL CONSULTING SERVICES  
TO LAKE COUNTY, INDIANA**

**THIS AGREEMENT** entered into this 19 day of April, 2006 and effective immediately by and between **MAXIMUS, INC.** (hereinafter called the "Consultant") and the **County of Lake**, State of Indiana (hereinafter called the "County").

**WITNESSETH THAT**

**WHEREAS**, the County has programs which it operates with Federal funding, and

**WHEREAS**, the County supports these programs with central services paid from County appropriated funds, and

**WHEREAS**, the United States government and the State of Indiana may pay a fair share of these costs if supported by an approved cost allocation plan, and

**WHEREAS**, the Consultant is staffed with personnel knowledgeable and experienced in the requirements of developing and negotiating such governmental cost allocation plans, and

**WHEREAS**, the County desires to engage the Consultant to assist in developing a plan which conforms to Federal requirements, and will be approved by their representative,

**NOW THEREFORE**, the parties hereto mutually agree as follows:

1. **Employment of Consultant** - The County agrees to engage the Consultant and the Consultant hereby agrees to perform the following services.
2. **Scope of Services** - The Consultant shall do, perform, and carry out in a good and professional manner the following services:
  - A. Development of a central services cost allocation plan, which identifies the various costs incurred by the County to support and administer Federal and State programs. This plan will contain a determination of the allowable costs of providing each supporting service, such as purchasing, legal counsel, disbursement processing, etc.
  - B. Negotiation of the completed cost allocation plan with the representatives of the federal cognizant agency or its designee, if required.
  - C. Assistance in preparing the claims to the State for recovery of funds due the County from the Federal and State of Indiana governments. Consultant will also monitor the progress of claims through the State to ensure the County receives recoveries due it. Said monitoring is accomplished when the State provides Consultant with a "Remittance Notice" which details reimbursement amounts to each participating



county. Consultant will review "Remittance Notice" to verify amount claimed was basis for State remittance.

3. **Time of Performance** - The services to be performed hereunder by the Consultant shall be undertaken and completed in such sequence as to assure their expeditious completion and carry out the purposes of the agreement.

4. **Compensation** - The County agrees to pay the Consultant a sum not to exceed \$16,875 for each cost allocation plan and associated services required herein, which shall include reimbursement for expenses incurred. Consultant agrees to complete the project and all services as further provided herein for said sum.

5. **Method of Payment** - Payment will be made by the County to the Consultant from recovered funds from the Federal and State of Indiana governments, in the agreed upon amount in paragraph 4. The fee shall be paid to the Consultant as follows:

- A. Based upon the consultant's estimate of county recoveries, the consultant will submit a bill during the first quarter of the fiscal year that is covered by the plan.
- B. Recoveries will be shared equally by the County and Consultant based upon the recoveries identified in the plan until the amount in paragraph 4 is paid in full to the Consultant.
- C. Should the County recover from the plan, an amount less than the amount needed to satisfy the Consultant's fees, then no further payment is due the Consultant.
- D. It is understood that the funds received by the County after the end of this contract term which funds are received as a result of the work effort of the Consultant during the contract term, and reported to the County Auditor shall be included in the fee computation for the period this contract work is performed and forwarded to Consultant.

6. **Changes** - The County may, from time to time, require changes in the scope of the services of the Consultant to be performed hereunder. Such changes, which are mutually agreed upon by and between the County and the Consultant, shall be incorporated in written amendment to this agreement.

7. **Services and Materials to be Furnished by the County** - The Consultant shall provide guidance to the County in determining the data required for claims submission. The County further agrees to provide all data specifically requested, including documentation and information to the Consultant in a timely manner, as well as provide adequate staff for liaison with the Consultant and other agencies of County government. The Consultant shall assume all data so provided is correct. Consultant shall make its best effort to file claims in a timely manner pursuant to Scope of Services. For purposes of this Agreement, data that is requested by the Consultant must be provided within three weeks of the request, or three weeks prior to the filing deadline, whichever would come first, to be deemed to have been received in a timely manner. It is the responsibility of the County to provide the Consultant with payment information upon receipt of disbursements from the State for any and all claims filed pursuant to this Agreement.

8. **Termination of Agreement for Cause** - The County may terminate this Agreement with cause upon giving thirty (30) days written notice to Consultant. Provided however, that prior to termination for default, the County will provide adequate written notice to the Consultant affording it the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. In the event the County terminates this Agreement, Consultant shall be entitled to be paid for professional services and expenses incurred through the effective date of termination. Consultant may terminate this agreement with cause upon giving thirty (30) days written notice to the County. In the event Consultant terminates this Agreement, Consultant shall be entitled to receive compensation for services rendered and expenses incurred through the effective date of termination.

9. **Information and Reports** - The Consultant shall, at such time and in such form as the County may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims and other information relative to the project as may be requested by the County. The Consultant shall furnish the County, upon request with copies of all documents and other materials prepared or developed in relation with or as part of the project. Provided however, nothing contained herein is intended nor shall it be construed to require Consultant to provide its cost allocation software to the County.

10. **Records and Inspections** - The Consultant shall maintain full and accurate records with respect to all matters covered under this agreement. All working papers shall remain the property of Consultant. Consultant shall maintain its working papers for a period of three (3) years from the date of execution of this Agreement. The County shall have free access at all proper times to such records, and the right to examine and audit the same and to make transcripts there from, and to inspect all program data, documents, proceedings and activities.

11. **Accomplishment of Project** - The Consultant shall commence, carry on, and complete the project with all practicable dispatch, in a sound economical and efficient manner, in accordance with the provisions thereof and all applicable laws. In accomplishing the project, the Consultant shall take such steps as are appropriate to insure that the work involved is properly coordinated with related work being carried on in the County.

12. **Provisions Concerning Certain Waivers** - Subject to applicable law, any right or remedy with the County under this contract may be waived in writing by the County by a formal waiver, if, in the judgment of the County, this contract, as so modified, will still conform to the terms and requirements of pertinent laws.

13. **Matters to be Disregarded** - The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

14. **Completeness of Contract** - This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto.

15. **Third Parties** - The County and the Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

16. **When Rights and Remedies Not Waived** - In no event shall the making by the County of any payment to the Consultant constitute or be construed as a waiver by the County of any breach of covenant, or any default which may then exist, on the part of the Consultant, and the making of such payment by the County while any such breach or default shall exist, shall in no wise impair or prejudice any right or remedy available to the County in respect to such breach or default.

17. **Personnel** - The Consultant represents that he has or will secure at his own expense, all personnel required in performing the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the County. All of the services required hereunder will be performed by the Consultant or under his supervision, and all personnel engaged in the work shall be fully qualified to perform such services.

18. **Consultant Liability If Audited** - The Consultant will assume that all financial and statistical information provided to the Consultant by the County, its employees or representatives is accurate and complete. Any subsequent disallowance of funds is the sole responsibility of the County. The Consultant will, however, provide assistance to the County should an audit be undertaken of County indirect costs.

19. **Copyright** - County acknowledges that the cost allocation plan provided by the Consultant to the County is generated by Consultant's proprietary cost allocation software. County agrees that all ownership rights and copyrights thereto lie with Consultant. Nothing contained herein is intended nor shall it be construed to require the Consultant to provide such software to the County. County may use the report solely for and on behalf of County's operations.

20. **Severability** - If any term or provision of this Agreement shall be held invalid or unenforceable, they are, to that extent deemed omitted. The rest of this Agreement shall remain in full force and effect.

21. **Notices** - Any notice, bills, invoices, or reports required by this agreement shall be sufficient if sent by the parties hereto in the United States mail, postage paid, to the addresses noted below:

**COUNTY**  
County of Lake  
Office of the Auditor  
2293 N. Main St.  
Crown Point, IN 46307-1885

**CONSULTANT**  
MAXIMUS, INC.  
101 West Ohio Street, Suite 1515  
Indianapolis, IN 46204

Such notice shall be deemed delivered five (5) days after deposit in the U.S. mail box.

- 22. **Limitation of Liability** - In no event shall MAXIMUS be liable for indirect, special, consequential or punitive damages. MAXIMUS' liability to the County of Lake, Indiana or any third party, for any reason whatsoever and whether foreseeable or not, shall not exceed the total amount paid to MAXIMUS under this agreement.
- 23. **Contract Period Option** - MAXIMUS, Inc. provides the following two (2) options related to the Fiscal Year Scope of Services performance of the duties identified in Section 2 of this agreement. The appropriate county official should place a check mark next to the chosen contract period.

**(COUNTY OFFICIAL CHECK NEXT TO CHOSEN OPTION 1 OR OPTION 2)**

- OPTION 1** - A one (1) year agreement to prepare the plan based upon year-end financial data for 2006.
- OPTION 2** - A three (3) year agreement to prepare plans based upon year-end financial data for 2006, 2007, and 2008.

IN WITNESS WHEREOF, the County and the Consultant have executed this agreement as of the date first written above.

**LAKE COUNTY**

By:

\_\_\_\_\_  
(County Official)

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

*Frances DuBois*

\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(County Official)

*Doug Schuel*  
APPROVED THIS 19<sup>th</sup> DAY OF April 20 06

Date: \_\_\_\_\_

**MAXIMUS, Inc.**

By:

\_\_\_\_\_  
Matthew G. Brooks  
State Director

Date: \_\_\_\_\_

## Order#70 – Agenda #68

In the Matter of Service Agreements.

Scheub made a motion, seconded by DuPey, to approve the following Service Agreements. Motion passed 2-0.

|   |           |   |
|---|-----------|---|
| <b>L.C. CALUMET TOWNSHIP ASSESSOR</b>             | <b>W/</b> | Global Enterprise<br>Weaver Janitorial Services   |
| <b>L.C. ST. JOHN TOWNSHIP ASSESSOR</b>            | <b>W/</b> | Tri-Electronics   |
| <b>L.C. CORONER</b>                               | <b>W/</b> | Stericycle, Inc.  |
| <b>L.C. COUNCIL</b>                               | <b>W/</b> | Kramer & Leonard  |
| <b>L.C. BOARD OF ELECTIONS &amp; REGISTRATION</b> | <b>W/</b> | Noble Communications  |
| <b>L.C. FAIRGROUNDS</b>                           | <b>W/</b> | Allied Waste Service<br>Bruce Septic Service  |
| <b>L.C. HEALTH DEPARTMENT</b>                     | <b>W/</b> | Adams Remco, Inc.<br>Imaging Office Systems<br>Noble Communications<br>Nextel Corp.<br>Nextel Corp. |
| <b>L.C. HIGHWAY DEPT.</b>                         | <b>W/</b> | Tidy John, Inc.   |
| <b>L.C. JUVENILE COURT/IV-D COURT</b>             | <b>W/</b> | Word Systems  |
| <b>L.C. PROSECUTOR</b>                            | <b>W/</b> | Cenifax Network Solutions   |
| <b>L.C. PUBLIC DEFENDER</b>                       | <b>W/</b> | Noble Communications  |
| <b>L.C. SHERIFF</b>                               | <b>W/</b> | Fresh Start Counseling Services<br>Porter's Apparels, Inc.<br>Thyssenkrupp Elevator Corp.           |
| <b>L.C. SURVEYOR</b>                              | <b>W/</b> | Allard Rental Corp.   |
| <b>L.C. SUPERIOR COURT/CIVIL DIV.</b>             | <b>W/</b> | Medquist, Inc.  |

## Order#71 – Agenda #69

In the Matter of L.C. Council Ordinances and Resolutions – Resolution No. 06-42, Resolution of the L.C. Council Approving the Appeals by Civil Taxing Units within Lake County to the Department of Local Government Finance for Relief from Levy Limitations.

Scheub made a motion, seconded by DuPey, to approve the L.C. Council Resolution No. 06-42, Resolution of the L.C. Council Approving the Appeals by Civil Taxing Units within Lake County to the Department of Local Government Finance for Relief from Levy Limitations. Motion passed 2-0.

**RESOLUTION NO. 06-42**

**RESOLUTION OF THE LAKE COUNTY COUNCIL  
APPROVING THE APPEALS BY CIVIL TAXING UNITS WITHIN  
LAKE COUNTY TO THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE  
FOR RELIEF FROM LEVY LIMITATIONS**

**WHEREAS**, various taxing units within Lake County (Town of Merrillville, Cities of Lake Station and Hammond) desire to appeal to the Department of Local Government Finance for relief from levy limitations imposed by I.C. 6-1.1-18.5-13; and

**WHEREAS**, I.C. 6-1.1-17-15 and I.C. 6-1.1-18.5-12 provide for procedures to file the Petition for Relief from the limitations imposed by I.C. 6-1.1-18.5-13; and

**WHEREAS**, Senate Enrolled Act 355 has amended I.C. 6-1.1-18.5-12 to allow appeals to be filed on or before April 1, 2006; and

**WHEREAS**, the Lake County Council as the fiscal body of Lake County desires to approve the appeal by any civil taxing unit in Lake County to the Department of Local Government Finance for relief from levy limitations pursuant to I.C. 6-1.1-18.5-12.

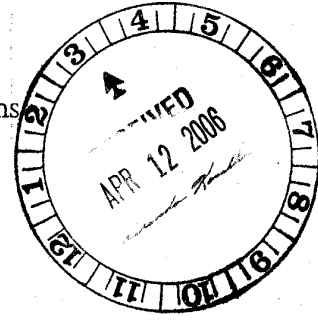
**NOW, THEREFORE, LET IT BE RESOLVED AS FOLLOWS:**

That the Lake County Council, the fiscal body for Lake County, Indiana, hereby approves the appeal by any civil taxing unit within Lake County to the Department of Local Government Finance for relief from levy limitations imposed by I.C. 6-1.1-18.5-13.

That pursuant to Senate Enrolled Act 355, effective on passage, the date for filing the appeal is extended to April 1, 2006 pursuant to I.C. 6-1.1-18.5-12.

That this Resolution applies to all taxing units within Lake County that determine that it cannot carry out its government functions for an ensuing calendar year under the levy limitations imposed.

That this Resolution applies to all taxing units within Lake County that determine that it cannot carry out its government functions for an ensuing calendar year under the levy limitations imposed, including the Town of Merrillville and the Cities of Lake Station and Hammond, Indiana.



SO RESOLVED THIS 27<sup>th</sup> DAY OF MARCH, 2006.

*Will A. Smith, Jr.*  
WILL A. SMITH, JR., President

*Ron Tabaczynski*  
RON TABACZYNSKI

Absent

THOMAS O'DONNELL

*Elsie Franklin*  
ELSIE FRANKLIN

*Larry Blanchard*  
LARRY BLANCHARD

Absent

CHRISTINE CID

*Donald Potrebic*  
DONALD POTREBIC

Members of the Lake County Council

BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

*Francis Duly*  
*Greg Schulz*  
APPROVED THIS 19 DAY OF April, 2006

Order#72 – Agenda #69

In the Matter of L.C. Council Ordinances and Resolutions – Ordinance No. 1274C, Ordinance establishing a Credit for Excessive Residential Property Taxes pursuant to I.C. 6-1.1-20.6. et. Seq. for Real Estate Taxes payable 2006.

Scheub made a motion, seconded by DuPey, to approve the L.C. Council Ordinance No. 1274C, Ordinance establishing a Credit for Excessive Residential Property Taxes pursuant to I.C. 6-1.1-20.6. et. Seq. for Real Estate Taxes payable 2006. Motion passed 2-0.

**ORDINANCE NO. 1274C**

**ORDINANCE ESTABLISHING A CREDIT FOR  
EXCESSIVE RESIDENTIAL PROPERTY TAXES  
PURSUANT TO I.C. 6-1.1-20.6, ET. SEQ.  
FOR REAL ESTATE TAXES PAYABLE 2006**

**WHEREAS**, pursuant to I.C. 36-2-3.5-3, the Lake County Council is the fiscal and legislative body of Lake County, Indiana; and

**WHEREAS**, pursuant to I.C. 36-2-3.5-4, the Lake County Council shall pass all ordinances for the Government of the County in the manner prescribed in I.C. 36-2-4, et. seq.; and

**WHEREAS**, as a result of the Court ordered reassessment thousands of homeowners, including homeowners in Lake County, have received property tax bills that are above two (2%) percent of the gross assessed value of their real estate, and in some cases as high as five (5%) percent or more; and

**WHEREAS**, such high property tax rates are especially burdensome for the owners of residential property and are detrimental to neighborhoods, business and governments; and

**WHEREAS**, I.C. 6-1.1-20.6, et. seq. establishes a real estate tax credit for certain "qualified residential properties" against the person's property tax liability for property taxes for "qualified residential property" located in Lake County; and

**WHEREAS**, pursuant to I.C. 6-1.1-20.6-6, the Lake County Council may adopt:

1. An ordinance to authorize the application of a credit for one or more calendar years to "qualified residential properties" (I.C. 6-1.1-20.6-4) in Lake County, Indiana; and
2. Must adopt the ordinance before July 1st of the calendar year to authorize the credit for property taxes due and payable in the immediately succeeding calendar year; and

**WHEREAS**, the Lake County Council may adopt an Ordinance before July 1, 2006 to apply the credit for taxes first due and payable in 2006; and

**WHEREAS**, pursuant to I.C. 6-1.1-20.6-7, upon authorization of the credit for property first due and payable in a calendar year:

1. A person is entitled to a credit against the person's property tax liability for property tax first due and payable in that calendar year attributed to the person's "qualified residential property" located in Lake County, Indiana; and



2. The amount of the credit is the amount by which the person's property tax liability attributable to the person's "qualified residential property" for property taxes first due and payable in that calendar year exceeds two (2%) percent of the gross assessed value that is the basis for determination of property taxes on the "qualified residential property" for property taxes first due and payable in that calendar year; and

**WHEREAS,** the Lake County Council desires to adopt an Ordinance to establish the credit for excessive residential property taxes pursuant to I.C. 6-1.1-20.6, et. seq.

**NOW, THEREFORE, LET IT BE ORDAINED AS FOLLOWS:**

1. That the Lake County Council hereby adopts the Ordinance Establishing the Credit for Excessive Residential Property Taxes pursuant to I.C. 6-1.1-20.6-6 and authorizes the application of the credit to "qualified residential property" in Lake County for taxes for 2005 due and payable in 2006.
2. That pursuant to I.C. 6-1.1-20.6-4, "qualified residential property" is limited to the following property that is eligible for credit:
  - a) a homestead, as defined in I.C. 6-1.1-20.9-1;
3. That pursuant to I.C. 6-1.1-20.6-7:
  - a) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in the calendar years provided in this Ordinance, attributable to the person's "qualified residential property" located in the County, and
  - b) the amount of the credit is the amount by which the person's property tax liability attributable to the person's "qualified residential property" for property taxes first due and payable in the calendar years provided in this Ordinance, exceeds two (2%) percent of the gross assessed value that is the basis for determination of the property tax on "qualified residential property" for property taxes first due and payable in the respective calendar year.
4. That the credit (I.C. 6-1.1-20.6, et. seq.) is authorized for property taxes first due and payable in 2006.
5. Upon the completion of the calculations of the two percent credit on the 2005 payable 2006 bills, the Auditor of Lake County, shall

notify each taxing unit with any liability under the credit if the total amount of the credit attributable to the unit and shall advise the unit to anticipate a reduction in the expected tax collection in the amount of the liability.

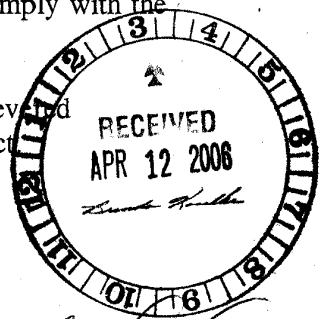
For purposes of this section:

"Liability" is defined as the shortfall between the tax collection without the credit, less the tax collection incorporating the credit.

"Tax unit" is defined as any governmental entity with a levy funded by a property tax rate.

"Total amount of the credit attributable to the unit" is defined as the cumulative rate levied by the unit and nothing in this act shall be construed to mandate the unit's fiscal body to reduce the levy amount for any specific fund or funds within the unit's total levy.

- 6. Pursuant to I.C. 6-1.1-20.6-9, the Lake County Council authorizes the County fiscal officer to borrow money repayable over a term of not to exceed five (5) years in an amount sufficient to compensate the political subdivision located in Lake County for the reduction of property tax collections in a calendar year that results from the application of the credit under this chapter for that calendar year. The proposed borrowing and repayment schedule must comply with the requirements of I.C. 6-1.1-20.6-9.
- 7. That any section of this Ordinance held invalid shall be severed and remaining sections shall remain in full force and effect.



SO ORDAINED THIS 11th DAY OF April, 2006.

*Will A. Smith, Jr.*  
WILL A. SMITH, JR., President

*Ron Tabaczynski*  
RON TABACZYNSKI

*Thomas O'Donnell*  
THOMAS O'DONNELL

*Elsie Franklin*  
ELSIE FRANKLIN

*Larry Blanchard*  
LARRY BLANCHARD

*Christine Cid*  
CHRISTINE CID

*Donald Potrebic*  
DONALD POTREBIC

*Frances Dukes*

*Gary Schell*  
A \_\_\_\_\_ DAY OF April, 2006

Members of the Lake County Council BOARD OF COMMISSIONERS OF THE COUNTY OF LAKE

## Order#73 – Agenda #69

In the Matter of L.C. Council Ordinances and Resolutions – Ordinance No. 1274D, An Ordinance of the County Council of the County of Lake, Indiana, Authorizing the County of Lake, Indiana to make a Temporary Loan to meet current running expenses for the Use of the General Fund of the County and Certain Department thereof; Authorizing the Issuance and sale of the Temporary Loan Tax Anticipation Warrant to evidence such loan; and Appropriating and Pledging a sufficient amount of the Revenues anticipated to be received in such fund to the punctual payment of such warrant including the interest thereon.

Scheub made a motion, seconded by DuPey, to approve the L.C. Council Ordinance No. 1274D, An Ordinance of the County Council of the County of Lake, Indiana, Authorizing the County of Lake, Indiana to make a Temporary Loan to meet current running expenses for the Use of the General Fund of the County and Certain Department thereof; Authorizing the Issuance and sale of the Temporary Loan Tax Anticipation Warrant to evidence such loan; and Appropriating and Pledging a sufficient amount of the Revenues anticipated to be received in such fund to the punctual payment of such warrant including the interest thereon. Motion passed 2-0.

**ORDINANCE NO. 1274D**

**AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF LAKE, INDIANA, AUTHORIZING THE COUNTY OF LAKE, INDIANA TO MAKE A TEMPORARY LOAN TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF THE GENERAL FUND OF THE COUNTY AND CERTAIN DEPARTMENTS THEREOF; AUTHORIZING THE ISSUANCE AND SALE OF THE TEMPORARY LOAN TAX ANTICIPATION WARRANT TO EVIDENCE SUCH LOAN; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUND TO THE PUNCTUAL PAYMENT OF SUCH WARRANT INCLUDING THE INTEREST THEREON**

**WHEREAS**, the County Council (the "County Council") of the County of Lake, Indiana (the "County") has determined that there will be an insufficient amount of money in the General Fund of the County (or certain departments of the County) (the "Fund") to meet the respective current running expenses of the County or departments thereof payable from the Fund during the fiscal year ending on the last day of December 2006, and prior to the respective June and December settlements and distributions of taxes levied for such Fund; and

**WHEREAS**, the County Council now finds that an emergency exists for the borrowing of money to pay the County's current running expenses, that a temporary loan for the Fund for such purposes should be made, and that a temporary loan tax anticipation warrant evidencing such loan should be issued and sold, subject to the terms and conditions set forth herein and in accordance with the provisions of Indiana law; and

**WHEREAS**, there remains to be collected for the year 2005 a portion of the taxes so levied for the Fund during such year and other anticipated revenues for the remainder of 2006, and an emergency exists requiring the borrowing of money with which to meet the current running expenses of the County payable from the Fund provided for in the 2006 budget, which

expenses must be met in amounts and at times during the year 2006 and prior to the anticipated dates of settlement and distribution of taxes levied for the Fund during such year; and

**WHEREAS**, the County is authorized by Indiana Code 36-2-6-18, as amended, to borrow money to pay such current running expenses by making temporary loan to procure the necessary funds and to evidence such temporary loan by issuing a temporary loan tax anticipation warrant in anticipation of the receipt of revenues of the County for the remainder of 2006, including, without limitation, current tax revenues for the Fund actually levied and currently in the course of collection and payable in 2006; and

**WHEREAS**, the County Council desires to authorize the making of such temporary loan to procure the amount necessary, in combination with other available amounts, to meet such current running expenses for the Fund and to pay necessary costs incurred in connection with the issuance and sale of temporary loan tax anticipation warrant to evidence such temporary loan; and

**WHEREAS**, the levies proposed for collection for the Fund for the remainder of 2006 are estimated to produce in the aggregate an amount in excess of the principal of and interest on the temporary loan for the Fund; and

**WHEREAS**, the County has no outstanding tax anticipation warrants payable from 2006 tax or other revenues with respect to of the Fund; and

**WHEREAS**, the County Council seeks to authorize the issuance of the temporary loan tax anticipation warrant with respect to the Fund and the sale of such warrant pursuant to the provisions of Indiana Code 36-2-6-18, subject to and dependent upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF LAKE, INDIANA, AS FOLLOWS:**

**SECTION 1. THE WARRANT.** It is hereby found and declared that an emergency exists for the borrowing of money with which to pay current running expenses payable from the Fund prior to the receipt of anticipated revenues of the County for the remainder of 2006, including, without limitation, taxes levied in 2005 and payable in 2006, for the Fund. For the purpose of paying the current running expenses of the County payable from the Fund, there shall be issued a temporary loan tax anticipation time warrant of the County designated "County of Lake, Indiana, Temporary Loan Tax Anticipation Warrant, Series 2006" (with a letter designation to reflect the series of such warrant) (the "Warrant"), in an aggregate principal amount not to exceed Forty Four Million Dollars (\$44,000,000), subject to applicable law, issued pursuant to the provisions of Indiana Code 36-2-6-18 as in effect on the date of the issuance of the Warrant from the General Fund.

The Warrant shall be dated as of the date of delivery thereof and shall be payable in lawful money of the United States of America upon presentation at the office of the Treasurer of the County or at such other place as shall be agreed to by the purchaser and the County. The County is authorized to make payments of principal and interest on the Warrant by paying the amount due from funds that are available for immediate transfer or investment on or before 12:00 noon on the due date to the purchaser of the Warrant.

The Warrant shall mature not later than December 29, 2006. The final maturity date and final aggregate principal amount of the Warrant shall be set forth in a certificate executed by the Treasurer of the County prior to the sale of the Warrant. The Warrant shall not be payable prior to maturity. The Warrant shall bear interest prior to maturity at a rate not exceeding six percent (6.0%) per annum (the exact rate to be determined by public sale through competitive bidding). Interest on the Warrant shall be calculated on the basis of a three hundred sixty-five (365)-day year.

The Warrant shall be issued in denominations of One Hundred Thousand Dollars (\$100,000) or integral multiples of One Thousand Dollars (\$1,000) in excess thereof (*e.g.*, \$100,000, or \$101,000, or \$102,000, etc.). The Warrant shall be numbered from 06\_R-1 upwards, with a letter designation to reflect the series of such Warrant. The Warrant shall be issued in the maximum principal amount of Forty Four Million Dollars (\$44,000,000), subject to applicable law.

**SECTION 2. SECURITY FOR WARRANT.** The principal of and interest on the Warrant, together with all necessary costs incurred in connection with the issuance and sale of the Warrant, shall be payable from anticipated revenues for the remainder of 2006 to be received in the Fund. There is hereby appropriated and pledged to the payment of the Warrant issued with respect to the Fund, including interest and all necessary costs incurred in connection with the issuance and sale of the Warrant, a sufficient amount of anticipated revenues for the remainder of 2006, including, without limitation, the taxes levied in 2005 and payable in 2006, for the Fund and in anticipation of which the Warrant is issued, for the punctual payment of the principal of and interest on the Warrant evidencing such temporary loan, together with such issuance costs, if any, subject to the application of the tax revenues to be received in the Fund to any long term lease or debt obligations due contemporaneously with such Warrant; provided, however, that the appropriation of moneys to the repayment of the Warrant shall not cause the County to violate the provisions of Indiana law or any contract, grant or other agreement to which the County is a party. The principal amount of the Warrant maturing on any date shall be based on the 2006 annual budget levy for the Fund (including property tax replacement credit revenues) as estimated or certified by the Indiana Department of Local Government Finance. For purposes of this Ordinance, fifty percent (50%) of the annual budget levy (including property tax replacement revenues) shall be deemed to equal the amount of taxes estimated by the County

Auditor to be collected for and distributed to the Fund at each of the June 2006 (that is, the first) and December 2006 (that is, the second and final) settlement and distribution of such revenues. The County covenants and agrees that it shall, if it fails to make any payment required herein when due, promptly undertake all actions, including the issuance of warrant issued to refund the unpaid Warrant that: (i) are necessary to cure such nonpayment, (ii) are legally available to cure such nonpayment, and (iii) do not, in the opinion of bond counsel, cause the Warrant to be considered debt of the County within the meaning of Article 13, Section 1 of the Indiana Constitution or laws of the State of Indiana.

**SECTION 3. EXECUTION OF WARRANT.** The Warrant issued hereunder shall be executed in the name of the County by the manual or facsimile signatures of the County Commissioners of the County and attested by the manual or facsimile signature of the Auditor of the County, provided that at least one of such signatures is manually affixed. In case any official whose manual or facsimile signature shall appear on the Warrant shall cease to be such official before the delivery of such Warrant, such signature shall nevertheless be valid and sufficient for all purposes the same as if such official had remained in office until delivery of the Warrant.

**SECTION 4. FORM OF WARRANT.** The Warrant shall be issued in substantially the following form (with all blanks, changes, additions and deletions, including the appropriate amount, dates and other information to be properly completed prior to the execution and delivery thereof, as conclusively evidenced by the signatures of the officers of the County affixed thereon):

[Form of Warrant]

No. 06\_R-1

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF LAKE

TEMPORARY LOAN TAX ANTICIPATION WARRANT, SERIES 2006A  
(GENERAL FUND)

|                |                         |
|----------------|-------------------------|
| Warrant Fund:  | General Fund            |
| Dated Date:    | May 5, 2006             |
| Due Date:      | December 29, 2006       |
| Principal Sum: | \$ _____                |
| Interest Rate: | _____ percent per annum |

FOR VALUE RECEIVED, on the Due Date set forth above (the "Due Date"), the County of Lake, Indiana (the "Borrower"), shall pay to \_\_\_\_\_ (the "Holder") the Principal Sum set forth above, together with interest thereon at the per annum Interest Rate set forth above, with such interest to be computed on the basis of a three hundred sixty-five (365)-day year from the date of issuance to the date of maturity. This warrant is not payable prior to maturity.

This warrant is a temporary loan tax anticipation time warrant for the purpose of providing funds to meet current expenses of the General Fund of the County set forth above (the "Fund"), and has been authorized by Ordinance No. \_\_\_\_\_, passed and adopted by the County Council of the County of Lake, Indiana, on April 11, 2006, in accordance with Indiana Code 36-2-6-18 and all other acts amendatory thereof or supplemental thereto.

This warrant is payable solely from anticipated revenues for the remainder of 2006, including, without limitation, the taxes levied for the Fund in the year 2005 and in the course of collection and payable in 2006. There has been irrevocably appropriated and pledged to the payment in full of the principal of and interest on this warrant a sufficient amount of such anticipated revenues, including, without limitation, the revenues to be derived from the Fund's tax levies, subject to the application of the tax revenues to be received in the Fund to any long term lease or debt obligations due contemporaneously with this warrant; provided that the appropriation of moneys to the repayment of this warrant shall not cause the Borrower to violate the provisions of Indiana law or any contract, grant or other agreement to which the Borrower is a party. The principal of and interest on this warrant shall be payable in lawful money of the United States of America at the principal office of the Treasurer of Lake County, Indiana.

It is further hereby certified, recited and declared that all acts, conditions and things required by law to be done precedent to the issuance and execution of this warrant have been properly done, have happened and have been performed in the manner required by the constitution and statutes of the State of Indiana relating thereto; that the Fund's tax levies from



which (together with other amounts in the Fund) this warrant is payable are valid and legal levies; and that the Borrower will reserve a sufficient amount of the proceeds of the Fund's tax levies currently in the course of collection for the timely payment of the principal of and interest on this warrant in accordance with its terms.

IN WITNESS WHEREOF, the County of Lake, Indiana, has caused this warrant to be executed in its corporate name by the manual or facsimile signature of the County Commissioners of the County of Lake, Indiana, and attested by the manual or facsimile signature of the Auditor of the County of Lake, Indiana, all as of the above Dated Date.

COUNTY OF LAKE, INDIANA

By: \_\_\_\_\_  
County Commissioner

*Frances Daley*  
\_\_\_\_\_  
County Commissioner

*Greg Schulz*  
\_\_\_\_\_  
County Commissioner

ATTEST: *Rossy D. K. K...*  
\_\_\_\_\_  
Auditor

[End of Form of Warrant]

Notwithstanding anything in this Ordinance to the contrary (including the form of Warrant in this Section 4 herein), the Warrant (as well as any other papers or certification delivered in connection therewith) can be signed by one or more of the County Commissioners and need not be signed by all members of the Board of County Commissioners.

**SECTION 5. ISSUANCE, SALE AND DELIVERY OF WARRANT.** The Auditor of the County is hereby authorized and directed to have the Warrant prepared, and the County Commissioners and the Auditor of the County are hereby authorized and directed to execute or to cause the execution of the Warrant in the form and manner herein provided, as conclusively evidenced by their execution thereof.

The Warrant shall be sold by public sale through competitive bidding. The Auditor, on behalf of the County, is authorized and directed to have the Warrant prepared in the form herein provided and is further directed to give notice of the sale of the Warrant by advertising once each week for two successive weeks in accordance with the provisions and requirements of Indiana law and requiring that sealed bids be submitted to the County, said bids to stipulate the rate of interest to be charged by such bidder.

Although not a term of sale, it is requested that each bid show the net dollar interest cost and net effective interest rate for the Warrant. The Warrant shall bear the rate of interest stipulated by the winning bidder as determined above.

Upon the award of the Warrant by the County to the bidder who has submitted the lowest rate of interest, the proper officers of the County are hereby authorized and directed to execute the Warrant in the form herein provided and to deliver the Warrant when so executed to the purchaser thereof upon payment by said purchaser of the purchase price of such Warrant.

**SECTION 6. FURTHER ACTIONS.** The County Commissioners and the Auditor of the County are hereby authorized and directed to make such filings and requests, deliver such certifications, execute and deliver such documents and instruments, and otherwise take such actions as are necessary or appropriate to carry out the terms and conditions of this Ordinance and the actions authorized hereby and thereby.

**SECTION 7. TAX COVENANTS.** The County hereby covenants that the County and its officers shall not take any action or fail to take any action with respect to the proceeds of the Warrant or any investment earnings thereon that would result in constituting the Warrant as "arbitrage bonds" under the Internal Revenue Code of 1986, as amended (the "Code"), and any and all final or proposed regulations or rulings applicable thereto, or which would otherwise cause the interest on the Warrant to cease to be excludable from gross income for purposes of federal income taxation; and the Auditor of the County and all other appropriate officers of the County are hereby authorized and directed to take any and all actions and to make and deliver any and all reports, filings and certifications as may be necessary or appropriate to evidence, establish or ensure such continuing exclusion of the interest on the Warrant.


**SECTION 8. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after the time it has been adopted by the County Council.


**SECTION 9. REPEAL OF CONFLICTING ORDINANCES.** All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

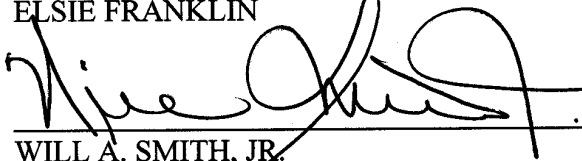
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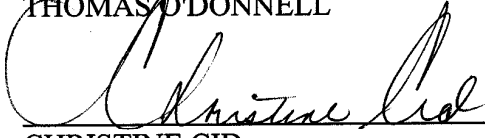
DULY ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY OF LAKE,  
LAKE COUNTY, INDIANA, THIS 11TH DAY OF APRIL, 2006.

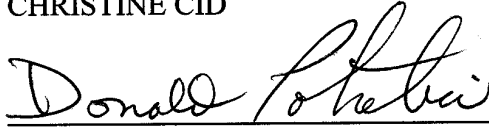
  
\_\_\_\_\_  
RON TABACZYNSKI


  
\_\_\_\_\_  
ELSIE FRANKLIN

  
\_\_\_\_\_  
WILL A. SMITH, JR.

  
\_\_\_\_\_  
THOMAS O'DONNELL

  
\_\_\_\_\_  
CHRISTINE CID

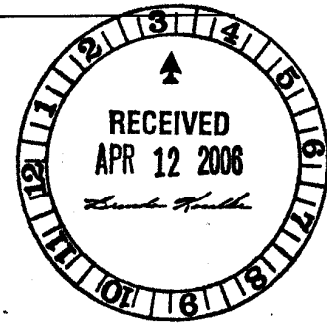
  
\_\_\_\_\_  
DONALD POTREBIC

  
\_\_\_\_\_  
LARRY BLANCHARD

ATTEST:

  
\_\_\_\_\_  
PEGGY HOLINGA KATONA, AUDITOR

DOXBOX/205379\_3



## Order#74 – Agenda #68

In the Matter of Service Agreements.

Scheub made a motion, seconded by DuPey, to delete the Service Agreement between the L.C. Sheriff and Fresh Start Counseling Services. Motion passed 2-0.

## Order#75 – Agenda #70

In the Matter of Appointments: L.C. Convention and Visitors Bureau.

Commissioner Scheub nominated Violet Mika to the L.C. Convention and Visitors Bureau. Hearing no other nominations, nominations were closed.

Scheub made a motion, seconded by DuPey, to reappoint Violet Mika to the L.C. Convention and Visitors Bureau. Motion passed 2-0.

## Order#76 – Agenda #70

In the Matter of Appointments: Northwest Indiana Regional Planning Commission.

Commissioner DuPey nominated Commissioner Gerry Scheub to the Northwest Indiana Regional Planning Commission. Hearing no other nominations, nominations were closed.

DuPey made a motion, seconded by Scheub, to appoint Commissioner Gerry Scheub to the Northwest Indiana Regional Planning Commission. Motion passed 2-0.

## Order#77 – Agenda #70

In the Matter of Appointments: Plan Commission.

Scheub made a motion, seconded by DuPey, to remove Steve Strong from the Plan Commission for 6 months due to his inability to be here. Motion passed 2-0.

Scheub made a motion, seconded by DuPey, to appoint Kenneth Huseman to the temporary opening of the Plan Commission. Motion passed 2-0.

## Order#78 – Agenda #70

In the Matter of Appointments: L.C. Redevelopment Authority.

Scheub made a motion, seconded by DuPey, to re-appoint the three current members, Larry Cak, Stan Sims, and Frances DuPey. Motion passed 2-0.

## Order#79 – Agenda #71A

In the Matter of Treasurer's Report for the month of November, 2005.

Comes now, John Petalas, Lake County Treasurer, and files with the Board his report of fees taken in and collected in his office for the Month of November, 2005. Said report is in the following words and figures, to-wit; and the Board having previously duly examined and approved said report, now accepts same and the account of said official duly settled as in report set forth.

Scheub made a motion, seconded by DuPey, to accept the above Treasurer's Reports of November, 2005 as submitted. Motion passed 2-0.

## Order#80 – Agenda #71B

In the Matter of Weights and Measures Report for period of February 16, 2006 – March 15, 2006.

Comes now, Christine Clay, County Inspector, Weights and Measures, and files with the Board her report of fees taken in and collected in her office for the Periods 02/16/06 – 03/15/06. Said report are in the following words and figures, to-wit; and the Board having previously duly examined and approved said report, now accepts same and the account of said official duly settled as in report set forth.

Scheub made a motion, seconded by DuPey, to accept the above Weights and Measures Reports of 02/16/06 – 03/15/06 as submitted. Motion passed 2-0.

The following officials were Present:

Attorney John Dull  
Dan Ombac  
Jim Bennett  
Marcus Malczewski  
Bill Henderson  
Brenda Koselke

The next Board of Commissioners Meeting will be held on Wednesday, May 17, 2006 at 10:00 A.M.

There being no further business before the Board at this time, Scheub made a motion, seconded by DuPey, to adjourn.

\_\_\_\_\_  
FRANCES DUPEY, PRESIDENT

\_\_\_\_\_  
GERRY SCHEUB

ATTEST:

\_\_\_\_\_  
PEGGY HOLINGA KATONA, LAKE COUNTY AUDITOR