



BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN
Citizens Square Suite 410 · 200 East Berry Street · Fort Wayne, IN 46802
Phone: 260.449.7555 FAX: 260.449.7568

LINDA K. BLOOM THERESE M. BROWN NELSON PETERS

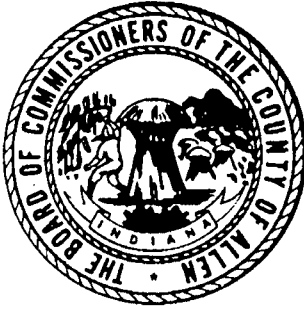
AGENDA

Commissioners' Legislative Session
10:00 AM Friday, April 14, 2017
Council Chambers Courtroom – Citizens Square

1. Consider approval of the minutes of April 7, 2017.
2. Consider approval of Consent Resolution for NP Fort Wayne 40, LLC.
3. Consider approval of interlocal agreement between the Board of Commissioners and City of Fort Wayne for purchase of a severe weather warning siren.
4. Consider approval of Agreement between the Board of Commissioners and Clark Dietz for Auburn Rd Site Management and Permit Reporting, Project #00-343. In the amount of \$17,980.00.
5. Consider approval of 2016 Annual Report for the Highway Department.
6. Consider approval of Change Order # 8 for Gump Rd from SR 3 to Coldwater Rd, Project # 03-296. In the Amount of \$984.28 (increase).
7. Consider approval of Change Order # 9 for Gump Rd from SR 3 to Coldwater Rd, Project # 03-296. In the Amount of \$119,988 (increase).
8. Consider approval of Rezoning Petition #REZ-2017-0001 to rezone 148.4 acres on the south and east sides of the 9600 to 10000 blocks of North Clinton Street and the east side of the 9300 block of Brooks Road from MHP/Manufactured Home Park and A3/Estates to BTI/Business, Technology, and Industrial Park; C1/Professional Office and Personal Services; and R3/Multiple Family Residential.
9. Consider approval of Rezoning Petition #REZ-0003 to rezone 83.9 acres on the east side of the 17100 to 17200 blocks of Lima Road from A1/Agricultural to R1/Single Family Residential for a 152 lot subdivision.
10. Consider approval of Rezoning Petition #REZ-0005 to rezone 5.2 acres on the west side of the 14400 block of Coldwater Road from R1/Single Family Residential to A1/Agricultural for a five-lot single family residential development.
11. Consider approval of Rezoning Petition #REZ-0007 and #REZ-0008 to rezone 8.66 acres at the southeast corner of the intersection of East Dupont Road and Diebold Road from SC/Shopping Center to C3/General Commercial and a portion from C3/General Commercial and MHP/Manufactured Home Park to SC/Shopping Center for the Dupont Corner Shopping Center.
12. Consider approval of Rezoning Petition #REZ-0009 to rezone 21.95 acres south of Acacia Creek Section 3 from A1/Agricultural to R1/Single Family Residential for a 70-lot subdivision.

- 13. Consider approval of Rezoning Petition #REZ-0010 to rezone .63 acres at 8411 Mayhew Road from C1/Professional Office and Personal Services to C3/General Commercial to allow flexibility in site use.**
- 14. Consider approval of memorandum of understanding between the Board of Commissioners and City of Fort Wayne for use of a Community Corrections work crew.**
- 15. Consider approval of Change Order No. 1 between the Board of Commissioners and Strebig Construction on Addition to Allen County Sheriff Range Building project. In the amount of \$24,302 (decrease).**
- 16. Consider approval of claims submitted for payment.**
- 17. Other Business:**
- 18. Approval to waive the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of March April 14, 2017.**
- 19. Comments from the Public**
- 20. Motion to Adjourn.**

Allen County does not discriminate because of disability in the admission to, or treatment or employment in, its programs or activities. The Human Resources Director has been designated to coordinate compliance with nondiscrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided therein, and Allen County's ADA policy is available from the ADA Coordinator. Suggestions on how the County can better meet the needs of persons with disabilities may be submitted to the ADA coordinator at: Human Resources Department, 200 East Berry Street, Suite 380, Fort Wayne, IN 46802, or by phone at (260) 449-7217.



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NELSON PETERS LINDA K. BLOOM THERESE BROWN

MINUTES

Commissioners' Legislative Session
10:00 a.m., Friday, April 7, 2017
Council Chambers Courtroom – Citizens Square

Commissioners Present: Therese Brown, Linda Bloom and Nelson Peters

| | | |
|-----------------|------------------|----------------------|
| Others Present: | Mike Green | Commissioners Office |
| | Bill Fishering | County Attorney |
| | Ed Steenman | IT |
| | Bill Hartman | Highway Director |
| | Rosa S Rodriguez | Journal Gazette |

Commissioner Brown called the meeting to order at 10:03 AM. Commissioner Brown led the meeting with the Pledge of Allegiance and a moment of silence.

- 1. Consider approval of the minutes of March 31, 2017.** Commissioner Peters made a motion to approve the minute of March 31, 2017. Commissioner Bloom seconded the motion. Motion carried 3-0.
- 2. Consider approval of amendment no. 1 to service agreement between the Board of Commissioners and Kronos Talent Management on behalf of County IT.** Ed Steenman, County IT Director, presented this item. He stated this is for the Talent Acquisition portion of the Kronos HR system. The original contract was a 4 year contract that has expired. Now we are on an annual renewal so this is an amendment to change that from a 4 year agreement to a 1 year agreement. The price goes up about 8% from what we have been paying. This is the support and hosting fee that we pay each month. It is not the base internal HR portion of the system. They are 2 separate agreements. Commissioner Bloom made a motion to approve amendment no. 1 to service agreement between the Board of Commissioners and Kronos Talent Management on behalf of County IT. Commissioner Peters seconded the motion. Motion carried 3-0.
- 3. Consider approval of Bid Award for Bid Ref # 03-17, Winters Rd Extension, Project # 1300116 to Primco, Inc. In the amount of \$3,686,039.83.** Bill Hartman, Highway Director, stated we only have 1 bid on this project. It is about 9% over the engineers estimate. However, we are on a very tight schedule to get this complete and we are recommending approval. Commissioner Bloom made a motion to approve the Bid Award for Bid Ref # 03-17, Winters Rd Extension, Project # 1300116 to Primco, Inc. In the amount of \$3,686,039.83. Commissioner Peters asked if this was all the States money. Bill said yes. Commissioner Peters seconded the motion. Motion carried 3-0.
- 4. Consider approval of Agreement between the Board of Commissioners and Clark Dietz for Auburn Rd Site Management and Permit Reporting, Project #00-343. In the amount of \$17,980.00. DEFERRED.**
- 5. Consider approval of Right of Entry between the Board of Commissioners and Indiana Department of Transportation for the Subcontractor, Fox Contractors Corp, to place asphalt millings at the North Maintenance Facility at 2234 Carroll Rd.** Bill Hartman stated the town of Huntertown is doing a project on Carroll Rd. and the subcontractor has offered us those millings to be hauled to our site and we would get them for our use. Commissioner Bloom made a motion to approve the Right of Entry between the Board of Commissioners and Indiana Department of Transportation for the Subcontractor, Fox Contractors Corp, to place asphalt millings at the North Maintenance Facility at 2234 Carroll Rd. Commissioner Peters seconded the motion. Motion carried 3-0.

6. Consider approval of Warranty Deed for Washington Center Rd Bridge # 95 over Spy Run Creek, Project # 0100113.

a. Parcel 7 – Cook Land Group, LLC

Bill Hartman stated this is parcel 6 of 7 so we just have one left. Commissioner Bloom made a motion to approve Warranty Deed. Commissioner Peters seconded the motion. Motion carried 3-0.

7. Ratification of Deed of Gift from General Motors for Winter Rd Extension, Project # 1300116. Bill Hartman stated this is the right of way for us to build Winters Rd. Commissioner Peters made a motion to ratify the Deed and the approval of the contract subject to the receipt of the executed deed by General Motors. Commissioner Bloom seconded the motion. Motion carried 3-0.

8. Consider approval of claims submitted for payment. Commissioner Peters made a motion to approve claims submitted for payment in the amount of \$1,441,515.04. Commissioner Bloom seconded the motion. Motion carried 3-0.

9. Other Business:

Consider approval of Limited Professional Services Agreement between the Board of Commissioners and Lochmueller Group for the Hoagland Wastewater Improvements Project Review. Commissioner Brown stated this is just to complement the financial aspect for the whole Hoagland improvement to the engineering process. Commissioner Bloom stated she would like to hold this because she hadn't seen it. Commissioner Brown stated this is to go over the project request by the Allen County Regional Water Sewer District to do improvements for that particular wastewater treatment facility to which we have already engage Crowe Horwath earlier this year or late last year to do a financial review for Hoagland and whether or not they can afford to take over or not take over the cost of acquisition. This component looks at the engineering that has been proposed by the Regional Sewer District to review that engineering to see if it is sufficient or maybe need to be reconsidered from an external point. Commissioner Peters stated he didn't see a problem with it other than it is a not to exceed contract for \$10,000. He stated however, that he was a little uncomfortable with one of the addendums as it had us as the owner as opposed to the client. We are actually the client and the owner and the client in that vernacular would indeed mean two different things. Commissioner Peters made a motion to approve the contract but to change the terminology "Owner" in their addendum to "Client". Commissioner Bloom asked if we should do this before the other review by Crowe Horwath is completed. Commissioner Peters said he thinks they both need to be done. Commissioner Brown said they work in tandem with each other. Commissioner Peters stated truly in looking out for the needs of the citizens, both the finance study as well as the engineering study make a great deal of sense to him. Commissioner Bloom asked without the first one being complete how could this one do their work. Commissioner Peters stated they will do their work because they will look at some of the engineering that has already been done. Commissioner Bloom asked when we signed for the first part of it, did we never think of this part? Commissioner Peters said no. Commissioner Bloom said she still was not comfortable with this. Commissioner Brown seconded Commissioner Peter's motion. Motion carried 2-1 (Linda Bloom).

10. Approval to waive the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of April 7, 2017. Commissioner Peters made a motion to approve the waiving of the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of April 7, 2017. Commissioner Bloom seconded the motion. Motion carried 3-0.

11. Comments from the Public.

12. Motion to Adjourn. Meeting adjourned 10:22 a.m.

#2

RESOLUTION NO. 2017-04-14-1

**CONSENT RESOLUTION FOR NP FORT WAYNE 40, LLC
STATEMENT OF BENEFITS**

WHEREAS, the County of Allen has been requested by the owners of record to find, pursuant to I.C. 6-1.1-12.1-2, that the attached Statement of Benefits justifies a deduction in assessed value of both real and personal property:

WHEREAS, on December 16, 2004, the County Council of Allen County, Indiana, did adopt a Confirmatory Resolution for the designation of all real estate in unincorporated Allen County except that zoned RS, RSP-1, RSP-2, A-2, A-3, RSP-3, and MH as an Economic Revitalization Area (ERA # 135) pursuant to Allen County Council Resolution No. 2004-12-16-03; and,

WHEREAS, on June 16, 2016, the Allen County Council approved the attached Statement of Benefits for NP Fort Wayne 40, LLC in order to provide a tax abatement or tax phase-in; and,

WHEREAS, on May 9, 2006, the Allen County Redevelopment Commission did adopt Resolution No. 06-5-09-1 declaring certain real estate described therein and generally located within Section 20 of Lafayette Township, Allen County, Indiana, to be blighted pursuant to the provisions of I.C. 36-7-14, and that said real estate should be designated as the Silverado Economic Development Area; and,

WHEREAS, on December 8, 2015, the Allen County Redevelopment Commission approved a resolution amending the Silverado EDA plan to establish the Stonebridge Allocation Area, pursuant to the procedures set forth in I.C. 36-7-14-39; and,

WHEREAS, I.C. 6-1.1-12.1-2(k) requires that a taxpayers statement of benefits may not be approved unless a resolution approving the Statement of Benefits is adopted by the legislative body of the unit having jurisdiction of the unit that approved the designated the allocation area pursuant to I.C. 36-7-14-39; and,

WHEREAS, the real estate described in the Statement of Benefits for NP Fort Wayne 40, LLC is within the Stonebridge Allocation Area; and,

WHEREAS, at this time the Redevelopment Commission does not require the property tax revenues abated by the County Council which might otherwise be due the Commission, under the provisions of I.C. 36-7-14-39, within said "allocation area"; and,

WHEREAS, a meeting of the Board of Commissioners of the County of Allen was held on April 14, 2017, at which time the Board of Commissioners reviewed and gave consideration to the Statement of Benefits filed by NP Fort Wayne 40, LLC.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners does hereby approve the Statement of Benefits for NP Fort Wayne 40, LLC by the Allen County Council.


BE IT FURTHER RESOLVED, that the Board of Commissioners does not find a conflict between the approval of the Statement of Benefits, as defined in I.C. 6-1.1-12.1-3 and 6-1.1-12.1-4.5 and the previous designation of portions of that real estate as an "allocation area", as defined in I.C. 36-7-14-39.


BE IT FURTHER RESOLVED, that if any part, parts, clause or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause or portion of this Resolution.

BE IT FINALLY RESOLVED, that the Board of Commissioners does waive the second reading of this Resolution.

ADOPTED, this 14th day of April, 2017, by the Board of Commissioners of the County of Allen.

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN, INDIANA



Therese Brown, President

F. Nelson Peters, Vice-President

Linda K. Bloom, Secretary

ATTEST:



Nick Jordan, Auditor



**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R6 / 10-14)

Prescribed by the Department of Local Government Finance

20 PAY 20

FORM SB-1 / Real Property

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
- Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
3. To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
4. A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
5. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1 TAXPAYER INFORMATION

Name of taxpayer
NP Fort Wayne 40, LLC

Address of taxpayer (number and street, city, state, and ZIP code)
5015 NW Canal Street, Riverside, MO 64150

| | | |
|---------------------------------------|--------------------------------------|---|
| Name of contact person Brent Miles | Telephone number (816) 888-7380 | E-mail address BMiles@northpointkc.com |
|---------------------------------------|--------------------------------------|---|

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

| | |
|---|--|
| Name of designating body Allen County Council | Resolution number |
| Location of property Fogwell Parkway, Roanoke, IN 46783 | County Allen |
| Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) 791,000 sf of new industrial building with related parking: access areas on a 760 acre parcel | DLGF taxing district number |
| | Estimated start date (month, day, year) |
| | Estimated completion date (month, day, year) |

SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

| Current number | Salaries | Number retained | Salaries | Number additional | Salaries |
|----------------|----------|-----------------|----------|-------------------|----------------|
| 0.00 | \$0.00 | 0.00 | \$0.00 | 200.00 | \$6,000,000.00 |

SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

| | REAL ESTATE IMPROVEMENTS | |
|---|--------------------------|----------------|
| | COST | ASSESSED VALUE |
| Current values | 0.00 | 0.00 |
| Plus estimated values of proposed project | 32,000,000.00 | 32,000,000.00 |
| Less values of any property being replaced | 0.00 | 0.00 |
| Net estimated values upon completion of project | 32,000,000.00 | 32,000,000.00 |

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

| | |
|--|--|
| Estimated solid waste converted (pounds) <u>0.00</u> | Estimated hazardous waste converted (pounds) <u> </u> |
| Other benefits None | |

SECTION 6 TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

| | |
|--|--|
| Signature of authorized representative | Date signed (month, day, year) June 1, 2016 |
| Printed name of authorized representative Brent Miles | Title Vice President |

43

INTERLOCAL COOPERATION AGREEMENT FOR THE
PURCHASE OF A SEVERE WEATHER WARNING SIREN
BETWEEN THE CITY OF FORT WAYNE AND THE COUNTY OF ALLEN

This Interlocal Cooperation Agreement ("Agreement") is entered into as of the date of the last signature below, by and between the Mayor of the City of Fort Wayne ("Mayor") and the Board of Commissioners of the County of Allen ("County Commissioners") (the "Effective Date"), and is made pursuant to Indiana Code 36-1-7-12.

WHEREAS, the City of Fort Wayne ("City") and the County of Allen ("County") are political subdivisions under I.C. 36-1-7-1(2) as defined in I.C.36-1-2-13; and

WHEREAS, the County Commissioners are the executive body for County and the Mayor is the executive for City; and

WHEREAS, City and County wish to ensure the safety of their residents and to provide an early warning in the event of a severe weather event; and

WHEREAS, the need for an additional severe weather outdoor warning siren has been identified in the Waynedale area; and

WHEREAS, City and County desire to jointly purchase a siren pursuant to I.C. 36-1-7-12 to better serve the citizens of both City and County;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. The purpose of this Agreement is to provide for the joint purchase of a severe weather outdoor warning siren to be located at 7001 Old Trail Road, Fort Wayne, Indiana 46809 (the "Waynedale Siren"). The Waynedale Siren will be integrated into the network of fifty four (54) sirens listed in paragraph 4.3.2 of the Allen County Office of Homeland Security Hazardous Weather Annex.

SECTION 2. The Waynedale Siren will be activated pursuant to the Combined Communications Partnership of Allen County policy 0200. The cost of electricity for the Waynedale Siren shall be paid for by the Southwest Allen County Fire District.

SECTION 3. Under the direction of the County Emergency Management Director, the County shall purchase and install the Waynedale Siren for a total cost of twenty five thousand nine hundred and eighty three dollars (\$25,983.00). City agrees to pay for half of the cost and reimburse County in the amount of twelve thousand nine hundred and ninety one dollars and fifty cents (\$12,991.50) within 30 days of receiving invoice.

AGREED TO, AS OF THE DATES SET FORTH BELOW:

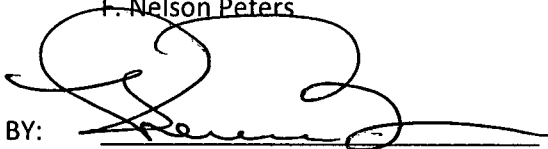
CITY OF FORT WAYNE, INDIANA

BY:  DATE: 4/18/17
Thomas C. Henry, Mayor

THE BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN

BY: _____ DATE: _____
Linda K. Bloom

BY:  DATE: 4-14-2017
F. Nelson Peters

BY:  DATE: 4-14-2017
Therese Brown

#4

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2017, by and between, the Board of Commissioners of the County of Allen, Indiana hereinafter referred to as the "LOCAL PUBLIC AGENCY", and

CLARK DIETZ, INC.

hereinafter referred to as the "CONSULTANT."

WITNESSETH

WHEREAS, the LOCAL PUBLIC AGENCY desires to contract for engineering services required to prepare contract documents, an opinion of probable cost and construction inspection services, for the project hereinafter described, and,

WHEREAS, THE CONSULTANT has expressed a willingness to prepare said contract documents and opinion of probable cost and provide construction inspection services as desired by the LOCAL PUBLIC AGENCY and to furnish the engineering services in connection therewith;

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:

Auburn Road Mitigation Site Monitoring and Permit Reporting

Site Monitoring of Auburn Road Mitigation Site as shown in the Auburn Road Plans and Monitoring and Permit Reporting to US Army Corps of Engineers

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, unless otherwise directed by the LOCAL PUBLIC AGENCY.

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.

Section V: General Provisions

1. Work Office

The CONSULTANT shall perform the work under this Agreement at the following office:

**Clark Dietz, Inc.
8900 Keystone Crossing
Suite 900
Indianapolis, Indiana 46240
(317) 844-8900**

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.

The State of Indiana has enacted a law (I.C. 22-5-1.7) that requires an entity entering into a contract with a state agency or political subdivision to verify that their employees are legally

eligible to work in the United States. As a term of this agreement, CONSULTANT shall:

- A. Enroll in and verify the work eligibility status of newly hired employees through the E-Verify programs (but is not required to do this if the E-Verify program no longer exists); and
- B. Certifies that the CONSULTANT does not knowingly employ unauthorized aliens.

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, gifts 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 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, investigation, studies, etc., as instruments of service for use on this specific project, are to be the property of the LOCAL PUBLIC AGENCY. The CONSULTANT may maintain copies of all documents and may use and copy such documents for CONSULTANT's use only. 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 in behalf of either, that he or they will comply with state, federal and local statutes, ordinances, and regulations applicable to the performance of this Agreement.

8. Standard of Performance

Services provided by CONSULTANT under this Agreement shall be performed in accordance with generally accepted engineering practices. All estimates, recommendations, opinions, and decisions shall be based on available information at the time, and the experience, technical qualifications, and professional judgment of CONSULTANT. CONSULTANT shall hold harmless the LOCAL PUBLIC AGENCY from claims, suits, actions, and damages resulting from the negligent acts, errors or omissions of the CONSULTANT under this Agreement.

9. Status of Claim

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. Responsibility of the CONSULTANT

- 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 designs, 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, or other consultants retained by the LOCAL PUBLIC AGENCY.

- | | |
|---------------------------------|--|
| B. General Liability Insurance: | \$1,000,000 per occurrence bodily injury or property damage \$300,000 Damage to Rented Property \$5,000 Medical Expense per person \$2,000,000 Annual aggregate. \$1,000,000 Personal & Adv. Injury \$1,000,000 Products – Comp/OP/ Agg. \$1,000,000 Errors and Omissions |
| C. Automobile | \$1,000,000 Hired/Non-Owned |

12. 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, or may otherwise communicate project status in the form of meetings, phone calls, faxes, emails, etc.

13. Changes in Work

In the event the LOCAL PUBLIC AGENCY requires a major change in scope, character or complexity of the work after 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 supplemental agreement is executed and the CONSULTANT is authorized in writing by the LOCAL PUBLIC AGENCY to proceed with the work.

14. Delays and Extensions

Delays or hindrances, that are not a result of CONSULTANT error, shall be compensated for by an extension of time for such periods as may be determined by mutual agreement of CONSULTANT and LOCAL PUBLIC AGENCY. Additional costs incurred due to the delay shall also be determined by mutual agreement of CONSULTANT and LOCAL PUBLIC AGENCY.

15. 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.

- B. If the CONSULTANT shall abandon or fail to timely perform 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 twenty (20) day period to fully comply with each and all requirements of this Agreement, this Agreement shall terminate. 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 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.

16. Non-Discrimination

Pursuant to I.C. 22-9-1-10 and I.C. 5-16-6-1, 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 age. Breach of this covenant may be regarded as a material breach of the Agreement.

17. 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 of such other party, as the cause 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.

18. Iran Certification

CONSULTANT hereby certifies, in accordance with I.C. 5-22-16.5-1 et seq., to have no engagement in investment activities in Iran as defined in the above cited statute.

19. Supplements

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

20. Indemnity

Contractor shall defend, indemnify, and hold harmless the Local Public Agency (including its officers, employees, and agents) from all demands, damages, liabilities, costs, and expenses (including reasonable attorney's fees), judgments, settlements, and penalties of every kind arising out of its performance of services including, without limitation, damages for personal injury or death or loss or damage to property due, or claimed to be due, to the negligence or willful misconduct of Contractor including such portion thereof due, or claimed to be due, to the negligence of the Local Public Agency, except that Contractor shall have no duty to hold harmless the Local Public Agency for such portion of the foregoing proximately caused by negligence or misconduct of the Local Public Agency and if any suit, claim, or demand was defended by Contractor, then the Local Public Agency will reimburse Contractor for its pro-rata share of its costs, expenses (including reasonable attorney's fees), and damages. The Local Public Agency may elect to participate in the defense of any suit, claim, or demand by employing attorneys at its own expense, without waiving Contractor's obligations to indemnify, defend, or hold harmless. Contractor shall not settle or compromise any claim, suit, or action, or consent to entry of judgment without the prior written consent of the Local Public Agency and without an unconditional release of all liability by each claimant or plaintiff of the Local Public Agency.

21. Employer Certification

In accordance with I.C. § 22-5-1.7, Consultant understands and agrees to enroll and verify work eligibility status of all newly hired employees of the Contractor through E-Verify program or any other system of legal residence verification as approved by the United States Department of Homeland Security or the department of homeland security. Consultant further understands that they are not required to verify work eligibility of status of newly hired employees of the Consultant through the E-Verify program if the E-Verify program no longer exists. Consultant certifies that they do not knowingly employ any unauthorized aliens.

22. Preferred Venue

Should any litigation arise out of any matter covered by this Agreement, said litigation shall be brought in either the State or Federal courts located in Allen County, Indiana.

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


CONSULTANT

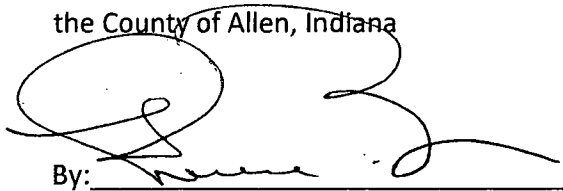
LOCAL PUBLIC AGENCY

Clark Dietz, Inc.


The Board of Commissioners of

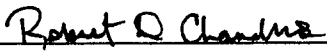
the County of Allen, Indiana

By: 
Gerald T. Payonk, P.E.
Executive Vice President

By: 
Therese M. Brown, President


Attest:

By: 
Nelson Peters, Vice President

By: 
Robert D. Chandler, II, P.E.
Project Manager

By: _____
Linda K. Bloom, Secretary

Attest: Allen County Auditor

By: 
Nicholas Jordan, CPA

