WARRICK COUNTY BOARD OF COMMISSIONERS MEETING
REGULAR SESSION
COMMISSIONERS MEETING ROOM
107 W. Locust Street, Suite 303
Boonville, Indiana
January 9, 2017
4:00 P.M.

The Warrick County Commissioners met in regular session with Marlin Weisheit, President; Dan Saylor, Vice President; and Bob Johnson, Member. Attorney Todd Glass attended.

Auditor Debbie Stevens and Secretary Kristine Georges attended and recorded the minutes.

President Marlin Weisheit called the meeting to order at 4:00 PM.

PLEDGE OF ALLEGIANCE

Marlin Weisheit: Thank you.

AREA PLAN COMMISSION
STREET CONSTRUCTION PLANS
BIEBER ESTATES PP-17-01

Marlin Weisheit: We'll continue with our APC and turn it over to Sherri.

Sherri Rector: Thank you. The first item is Request or Street Acceptance Plans, Primary Plat 17-01, Bieber Estates, by Linda Baldwin, Michael Brady Bieber and Michael Brandon Bieber and Jacob Bieber. It's thirty-eight point nine-two (38.92) acres located on the north side of Maxville Road approximately two hundred and nineteen feet (219) north of the intersection formed by Maxville Road and Winsett Road. It is also Parcels 2A and 2B of Bieber Minor Sub and part of the northwest corner of 35-5-7 in Skelton Township. They're requesting no improvements to Maxville Road or Winsett Road. It is one (1) new building site. Mr. Howard has reviewed this and signed off on no improvements. And I guess, I've got a plat if you need to see one (1). You probably seen it in Drainage Board.

Marlin Weisheit: You wanna go ahead?

Bill Bivins: Bill Bivins, Engineer.

Marlin Weisheit: Anybody have any questions for Mr. Bivins?

Bob Johnson: I do not.

Dan Saylor: I do not.

Marlin Weisheit: Bobby, do you have anything to add to this? You concur?

Bobby Howard: I would recommend no improvements.

Marlin Weisheit: Okay.

Bobby Howard: To the adjacent roadways.

Marlin Weisheit: So I'd look for a motion to approve PP-17-01 on Bieber Estates.

Dan Saylor: I make a motion to approve PP-17-01.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. Motion carries three, zero (3-0).

Bill Bivins: Okay, thank you.

(Bieber Estates, PP-17-01 is located on Page 22 of these Official Minutes)

REQUEST FOR ACCEPTANCE OF STREETS FOR MAINTENANCE
ENGELBRECHT PLACE SECTION 2 PHASE IV

Sherri Rector: The next item is Request for Acceptance of Streets for Maintenance, Eng, the first one (1) is Engelbrecht Place, Section 2, Phase IV, by Engelbrecht Development, LLC. Allan Holweger, member. Park Place Drive, two hundred eighteen (218) lineal feet. Bobby has reviewed this. He has put subject to concrete behind inlets and secondary plat approval and recorded. Was that it?

Bobby Howard: Yes.

Sherri Rector: If you want to go ahead and accept it so it doesn't have to come back on your agenda tonight, Mr. Biggerstaff would have to certify that these have been done and of course we would have the plat to record. We would have to record it first before we can file the street acceptance. So we would hold it until he has signed off and the plat is in order. And we won't release any of the surety that we're holding 'til such time.

Marlin Weisheit: Anybody have any questions? And Bobby you're okay as long as it meets your requirements?

Bobby Howard: Yes. Just approve subject to those conditions that she stated.

Marlin Weisheit: Okay. Then I'd entertain a motion to approve subject to our Engineer's standards.

Bob Johnson: I make a motion to approve Engelbrecht Place, Section 2, Phase IV, per Bobby's instructions.

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

Jim Biggerstaff: Yeah, I have one (1) question, Bobby.

Bobby Howard: Yep.

Jim Biggerstaff: In regards to that retention base, you know it's half way in the middle of the highway.

Bobby Howard: That retention base and issue will be taken up at Drainage.

Jim Biggerstaff: Yeah, but my question is though, what's going to be, in other words, we did come out with the new calculations on the base and if it's not required...

Bobby Howard: Yeah, you can bring those in to..

Jim Biggerstaff: Okay.

Bobby Howard: Bring those in to Phil...

Jim Biggerstaff: Pardon?

Bobby Howard: Bring those in to Phil, at the Surveyor, the County Surveyor...

Jim Biggerstaff: Yeah.

Bobby Howard: And they'll take that up during Drainage Board.

Jim Biggerstaff: Okay. Thanks.

(Engelbrecht Place, Streets for Maintenance is located on Page 22 of these Official Minutes)

HUNTINGTON CREEK SUBDIVISION SECTION B

Sherri Rector: Okay the next request is for Maintenance of Huntington Creek Subdivision, Section B, by Newburgh Development Group, Aaron Miller, President. It is Huntington Drive, seven hundred and thirty-one point seven-seven (731.77) lineal feet; Huntley Court, four hundred and nineteen point twenty-seven (419.27) lineal feet; Devon Court, four hundred ninety-seven point three-four (497.34) lineal feet; Ashton Court, five hundred and thirty (530.00) lineal feet. Mr. Howard has also reviewed this. We are waiting for a Hold Harmless to be executed and subject to new stop signs being up and I think, Bobby, you had...

Bobby Howard: Yeah, those were the only two (2) requirements, I believe. A Hold Harmless was being drafted by your attorney to be reviewed by our attorney and once that's reviewed and approved and ready to be signed. Some of those stop signs out there, they were placed years ago but they're already faded.

Aaron Miller: Um hum.

Bobby Howard: So we need those replaced...

Aaron Miller: Okay.

Bobby Howard: Before we can accept it for maintenance and those would be my only requirements. So, because once the Hold Harmless is reviewed and approved then Section A, we've already approved subject to that Hold Harmless...

Aaron Miller: Um hum.

Bobby Howard: Would be accepted for Maintenance and so now Section B can be accepted for maintenance with the only caveat, the streets, the streets, the stop signs.

Aaron Miller: Stop signs.

Bobby Howard: Yeah.

Marlin Weisheit: And the Hold Harmless?

Bobby Howard: Well the Hold Harmless is for A, but I believe that's been submitted.

Marlin Weisheit: Oh, okay.

Bobby Howard: I'm not sure where…

Todd Glass: Yes, the Hold Harmless is ready for you to entertain in a few minutes later on in the agenda for approval.

Aaron Miller: Okay.

Bobby Howard: So it would be approved just subject to the Hold Harmless being approved and the stop signs…

Marlin Weisheit: Do you have anything further on that?

Aaron Miller: No.

Marlin Weisheit: Or any questions? Okay. I'd entertain a motion then.

Roger Emmons: Sir, would you state your name.

Aaron Miller: I'm sorry. I'm Aaron Miller with Newburgh Development Group.

Roger Emmons: Thank you.

Dan Saylor: I would make the motion to approve the Huntington Creek Subdivision, Section B, according to our Highway Superintendent's recommendations.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

(Request for Maintenance, Huntington Creek is located on Page 23 of these Official Minutes)

REQUEST FOR EXTENSION OF SURETY
HUNTINGTON CREEK SUBDIVISION SECTION B

Sherri Rector: He's next again.

Marlin Weisheit: Oh, okay.

Sherri Rector: The next item is Request for Extension of Surety. This is Huntington Creek Subdivision, Section B, by Newburgh Land Development Group, Aaron Miller, President. This is for sidewalk construction. They have had a letter of credit for twelve (12) years and three (3) months. The Ordinance allows for a maximum time period of nine (9) years for sidewalk construction therefore they are requesting a modification from the Subdivision Control Ordinance to be allowed additional time and to replace an existing letter of credit with a cashier's check during the one (1) year time period. Requesting a one (1) year extension, calendar year of 2017, with an increase from sixteen thousand six hundred sixty-nine dollars and sixty-two cents ($16,669.62) to eighteen thousand one hundred and thirty-three dollars and twenty cents ($18,133.20). The letter of credit expires April the 18th. This is kind of confusing, so I'm gonna read this so you, try to put it together for you. As stated, they have had letters of credit for twelve (12) years and three (3) months. They came before the County Commissioners on September the 26th of '16, for an extension and were granted a one (1) year extension, however their bank would only renew the letter of credit for six (6) months. The letter of credit expires April the 18th. Mr. Miller is requesting to have his streets accepted, which you just did, and post a cashier's check to cover the cost of construction of sidewalks with the expiration to be at the end of this calendar year. The one (1) year expiration they received on January 25, would have been October the 18th, so they're only requesting an additional two (2) month's period over the year. Per our Ordinance, you cannot reduce a letter of credit during the one (1) year time limit so that's why he's asking him to be allowed to do this and to reduce it and change the surety within the one (1) year time period. We are currently holding fifty-seven thousand four hundred and fifty-eight dollars and thirty cents ($57,458.30) for streets, drainage, and sidewalks. In accepting the streets for maintenance we will only need to hold the money for the sidewalk construction. However the dollar amount for construction has doubled on the sidewalks so we would have to hold eighteen thousand one hundred and thirty-three dollars and twenty cents ($18,133.20) for the sidewalks instead of the sixteen six-sixty-nine sixty-two ($16,669.62). This is all subject to the streets being accepted and him doing that. And what happens, so you know, whenever they post surety instead of a letter of credit, they submit a cashier's check. That cashier's check we take over to the Auditor's Office. That is put into an escrow account just for, in this case, Huntington sidewalks. And then if he doesn't get them put in, then the County has the authority to pull the money and have them installed themselves. So they're trying to get their financial things straightened out in the subdivisions from the recession and different things so they're just trying to cover all their bases and get some time to get it finished up.

Marlin Weisheit: Sound alright to you, Bobby?

Bobby Howard: Yes.

Marlin Weisheit: Any questions from the Board members?

Dan Saylor: No.

Bob Johnson: (Inaudible)

Marlin Weisheit: I'd entertain a motion.

Bob Johnson: I make a motion to approve Huntington Creek Subdivision, Section B, as per stated.

Marlin Weisheit: Okay.

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

Aaron Miller: Fantastic. Thanks, guys.

Sherri Rector: Thank you.

Marlin Weisheit: Thank you, appreciate you.

Sherri Rector: That's all I have, thank you.

(Extension of Surety, Huntington Creek, is located on Page 24 of these Official Minutes)

APPROVAL OF MINUTES
DECEMBER 27, 2017

Marlin Weisheit: Okay, we've got Approval of Minutes. Counsel, how do we do the December 27th section, cause they wasn't here then? I'm the only one (1) I guess.

Todd Glass: Well, that's a good question. I just now noticed that. I recommend you table that and have them review those minutes between now and the next meeting.

Marlin Weisheit: Okay.

Todd Glass: And at that point in time they'd be able to approve them for records of the Commissioners.

Marlin Weisheit: Okay. I'd ask for a motion to table the December 27th regular session meeting.

Dan Saylor: I make a motion to table the minutes for December 27th, 2016.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

JANUARY 2, 2017

Marlin Weisheit: Now our January 22nd, 8 o'clock (AM) regular session which is where we made our appointments, we can go ahead and approve those today.

Roger Emmons: January 2nd.

Marlin Weisheit: January 2nd, 2017.

Roger Emmons: You said 22nd.

Marlin Weisheit: I'm sorry, January 2nd at 8 o'clock (AM) when we held our appointments, our first meeting. So I'd entertain a motion to approve those minutes.

Bob Johnson: I make a motion to approve January 2nd, 2017 minutes.

Dan Saylor: Second.

Marlin Weisheit: Second, all in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Okay, we'll bring those December 27th back to our next meeting and then give you guys a chance to review them. Thank you, they're sitting there, to look over them.

ITEMS FOR DISCUSSION
APPOINTMENTS FOR LOCAL PLANNING COUNCIL

Marlin Weisheit: Items for Discussion, it looks like Appointments for Local Planning Council.

Roger Emmons: The, I gave you my, I already had my items, I put a copy in your box, but anyway, I didn't have the time to check on this cause I was out sick last week. The terms on that are indefinite. So there's no real rush. If anything, I'd recommend you approve the current membership. I don't, I don't think that committee has met, or the council has met in a long time. Now I'm not, so, or it could be tabled.

Dan Saylor: Roger, I, I spoke to Paul Ramey who was listed on that, and he said he has no recollection of ever serving on that Board, or ever meeting…

Roger Emmons: I think it came down pursuant to an Indiana Code requirement. The Commissioner's did it, but if you'd like to table it and do more research on it for the 23rd meeting.

Marlin Weisheit: I'd move to table the Area Planning Council then. Someone want to second that motion?

Bob Johnson: I'll second it.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

AREA PLAN COMMISSION APPOINTMENT

Marlin Weisheit: Okay, Area Plan Commission, though, did we have an appointment we missed on there?

Roger Emmons: You did miss the appointment at your January 2nd meeting and that is Amanda Bailey Mosiman. She is the Extension Educator at the Purdue Extension Office and I just talked to Sherri about it and she recommends that she continues.

Marlin Weisheit: And that's through the Surveyor's Office and he's the one (1) that asked for her to be serving in his place? Wasn't it?

Roger Emmons: No, Indiana Code requires that you either appoint the County Surveyor or a representative of the Extension Office.

Marlin Weisheit: Oh, that's why we missed that one (1).

Roger Emmons: And Phil doesn't want to do it, so…

Marlin Weisheit: Yeah, okay.

Roger Emmons: And Amanda does, so…

Marlin Weisheit: And she's done a good job on there, so, I'd entertain a motion to reappoint her to the Area Plan.

Dan Saylor: I make a motion to appoint, to reappoint Amanda, is it Mosiman?

Marlin Weisheit: Yeah…

Roger Emmons: Yes.

Dan Saylor: To the Area Plan.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Okay, thank you.

Roger Emmons: Thank you.

DEPARTMENTAL REPORTS
COUNTY ADMINISTRATOR
ESTABLISHING DOLLAR THRESHOLD FOR UNSUBSTANTIAL FINANCIAL INTEREST AND/OR UNSOLICITED GIFT

Marlin Weisheit: Okay, Roger, go ahead with your items.

Roger Emmons: The first item that's listed, it's about discussing this Establishing a Dollar Threshold and all that. But Marlin would like to discuss it separately with the Commissioners, Saylor and Johnson. I'd recommend you either table it or remove it until further notice.

Marlin Weisheit: I'm okay, basically we could remove it and bring it back up when we've had a chance to consider it, see what some other counties are doing instead of pushing into it.

Roger Emmons: I think that's a good idea.

Marlin Weisheit: So I'll just ask for a motion to remove that from the agenda.

Dan Saylor: I make a motion to remove the Dollar Threshold item until further notice.

Bob Johnson: I second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Thank you.

Roger Emmons: Thank you.

FIXED ASSET NOTIFICATION FORM STORM WATER FELLING TRAILER

Roger Emmons: Next item is the Fixed Asset Notification Form for a Felling Trailer, that is the brand name, purchased by the Storm Water Management Department. This is pursuant to the County's Ordinance on Capitalizing Equipment and Property. I have the form, just need approval by motion.

Marlin Weisheit: I'd ask for a motion. Would one (1) of you guys like to make a motion? Or do you understand what that's for? Roger, why don't you explain that a little more.

Roger Emmons: Well, the Fixed Asset Notification Form, basically is a way to track our real property and our equipment.

Dan Saylor: The assets?

Roger Emmons: And the Ordinance states that a piece of equipment, I think it's seven hundred and fifty ($750.00) on that or you can combine 'em, five thousand ($5,000.00). Those items had to be capitalized and a Fixed Asset Notification Form does that for us.

Marlin Weisheit: And this is a new purchase here, right? This is the last trailer...

Roger Emmons: It is a new purchase.

Marlin Weisheit: We bought at the Storm Water Department.

Bob Johnson: Purchased, okay.

Marlin Weisheit: Yes, okay, yeah. So that's why we need to do that. I'd entertain a motion to approve that form.

Bob Johnson: I'll make a motion to approve the new Felling Trailer for Storm Water Department.

Marlin Weisheit: Okay. Have a second?

Dan Saylor: Second.

Marlin Weisheit: Second, all in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. Motion carries (3-0).

Roger Emmons: Thank you.

TEAMVIEWER IT REMOTE MANAGEMENT CONTRACT

Roger Emmons: Mr. President, before I move on to my other items for Information and Discussion, I'd like for our IT Director, Doug Duncan, to come to the podium and explain some situations we have with software contracts. I think Todd is now on top of those. At least he said he was.

Doug Duncan: Doug Duncan, IT.

Todd Glass: Yes...

Doug Duncan: At the last meeting, a few of the contracts were tabled because, or a few items were tabled because of contracts that had to be reviewed and I got with Todd and he has some more information about that.

Todd Glass: Yes, Mr. President, I, I think I can help with these. There's four (4) contracts.

Marlin Weisheit: Yes.

Todd Glass: And on December the 27th, the Board approved the TeamViewer Workstation Back-up Services Contract contingent on final Attorney approval. Looks like I have everything there I need. We have the End User License Agreement. So that is fine. It's been approved, so, Doug, unless the Commissioners instruct you otherwise you can proceed to finalize the TeamViewer Workstation Back-up. That was a back-up service at a thirteen hundred dollar ($1,300.00) annual cost. So it's roughly a hundred dollars ($100.00) a month, roughly. It, it, it gives you an idea of the problems associated with these internet contracts because it's applicable to German law and the preferred venue is the State of New York. But what do you do about that? Alright. The second contract is also in, in good enough shape, Mr. President. The TeamViewer, what is that? The Management Consult Contract?

Roger Emmons: Is that the training?

Doug Duncan: Um.

Roger Emmons: No?

Todd Glass: It's IT Brain?

Doug Duncan: The, the TeamViewer is the Remote Management piece of it.

Todd Glass: Remote Management.

Doug Duncan: And also does some inventory on the, on the workstations. It would be replacing our Enable product that's gonna be coming, that's gonna be, the price is going up in a few months. I just got an email, actually a little before noon today from Automated Office Solutions that the price was going up.

Todd Glass: It was a, it was only eight hundred and forty-nine dollars ($849.00) a year before, so...

Doug Duncan: Correct.

Todd Glass: So relatively small cost of a contract, but, but it works in conjunction with the Keller Schroeder Management Contract...

Doug Duncan: Correct.

Todd Glass: Also. It looks to be a necessary component and I've got all the contract documents I need to establish what that contract is. Again German law, New York preferred venue, but that's what TeamViewer is and again a relatively small contract. So I have everything in place for the TeamViewer Management Contract if the Commissioners would wish to approve that and instruct Doug to go ahead and finalize that.

Marlin Weisheit: So we have two (2) contracts to approve?

Todd Glass: No, you've already approved the Workstation Back-up. The first one (1) that's ready for approval is the TeamViewer, what did you call it?

Doug Duncan: The...

Roger Emmons: The Remote Management...

Todd Glass: Remote Management Contract, which I have everything and it's ready to go.

Marlin Weisheit: And I want to thank Doug for putting it together. I asked him a few weeks ago for a list of all our IT contracts, what they cost, and when they expire so we know what all we're, you've done a good job putting that together where I can understand it. Yeah, I appreciate that. Cause it seems like we're dealing with this every month, and least this makes sense how we'll replace the others.

Todd Glass: So...

Marlin Weisheit: I'll go ahead and ask for a motion to approve the TeamViewer Remote Management Contract at this time.

Todd Glass: Correct.

Dan Saylor: I make a motion.

Bob Johnson: I'll second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: (Inaudible).

Marlin Weisheit: Aye. Motion carries (3-0).

Todd Glass: Thank you, Mr. President.

(TeamViewer IT Remote Management Contract is located on Pages 24 through 32 of these Official Minutes)

KELLER SCHROEDER MANAGEMENT CONSULTING AGREEMENT STORAGE GUARDIAN

Todd Glass: There remains two (2) more, Keller Schroeder Management Consulting Agreement. That's five hundred seventy dollars ($570.00) per month, month to month. Since it's a local company there's a couple items on that contract, I mentioned to Doug, that's relatively shy on. Similar arrangement with the Storage Guardian Back-Up Management Contract which also provides for separate department billing. Those two (2) contracts, I have everything in hand but I'd like to work with Doug to see if we could get a couple of fixes on the contracts. That shouldn't be too difficult to obtain with Doug's help and I don't care if, if we table those to the next meeting to where they're in final shape. Or you can approve them subject to Counsel's final approval.

Bob Johnson: Okay.

Todd Glass: Again that's the Keller Schroeder Management Agreement, month to month, five hundred seventy dollars ($570.00) per month and secondly the Storage Guardian Back-Up Management Contract which is roughly one hundred dollars ($100.00) a month.

Doug Duncan: The Storage Guardian is going to be for, for servers for different departments. Right now I have two (2) different departments that are wanting to take advantage of that and I assume I'm gonna have a few other departments that are going to want to utilize that service. But the Storage Guardian, the cost for that is not going to be coming out of the Commissioner's Budget at all. Those are going to be department, each department unless the Commissioners want to have some of our assets backed up in that manner, which I'll be getting with Roger on.

Roger Emmons: Is the Storage Guardian related to Keller Schroeder? Or is it separate?

Doug Duncan: Separate.

Roger Emmons: Okay.

Marlin Weisheit: I don't have a problem with approving both of these if everybody's in favor of it. It needs Counsel's approval. It's something that's gonna be needed. They've done their research on it.

Bob Johnson: I make a motion to approve.

Marlin Weisheit: Both of them?

Bob Johnson: Yes.

Marlin Weisheit: Pending Counsel approval?

Bob Johnson: Pending Counsel approval.

Marlin Weisheit: Is that okay with you, Counsel?

Todd Glass: Yes, that will work. Both the Keller Schroeder Management and the Storage Guardian, separate department back-up management contracts.

Marlin Weisheit: Motion, do I have a second?

Dan Saylor: Second.

Marlin Weisheit: Second, all in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. Motion carries three, zero (3-0). Thanks, Doug.

Doug Duncan: Thank you very much.

(Keller Schroeder and Storage Guardian Contract is located on Pages 32 through 39 of these Official Minutes)

RELOCATING CORONER'S OFFICE TO COURT SERVICES BUILDING

Roger Emmons: Okay, under Other Items for Information, Discussion, or Action, I've got down that to discuss the moving, the proposed move of the Coroner's Office to the Court Services Building, which is the old Harbor House. And it's to get it in the minutes as to how we will accomplish the work, perhaps the funding, research, etcetera.

Marlin Weisheit: Yeah, if the other Commissioners are in favor of it, I guess we could entertain a motion today to make that space available for her. I've, I've sent her a comment, but maybe we could have you send an email, Roger, if we approve this.

Roger Emmons: Okay.

Marlin Weisheit: The Prosecutor has asked for that space down in the basement of the Judicial Center that the Coroner currently uses. We have adequate space out at the Drug Court Building that could be, the back entrance would be perfect for the Coroner to use, if that's what she wants. I'd like to have her look at it with us. If she's got other space available, that's fine but that's what the County can provide for her at this time. But I'd like for her to come and look at it. And as far as moving her stuff, you know, if she wants us, the Highway Department, or Storm Water Department, we'll borrow some people and get her moved, if she can be or one (1) of the Deputy Coroners be with us when we make that move for her.

Roger Emmons: I don't think there's that, the items in there...

Marlin Weisheit: There's not that much in there. A couple desks, file cabinets, I mean I think one (1) office out there would be more than adequate for her. Unless she has another spot she prefers, but that's something the County's willing...but I think we need to make it official. We're going to dedicate that spot, maybe the first of February to the Prosecutor so he can utilize that for a conference room and his current conference room he's counting on using for one (1) of his Deputy Prosecutors and then I've also asked him if he would consider making that space available and he seems like he would for during lunch period to where the employees could actually have lunch...

Roger Emmons: Right.

Marlin Weisheit: That used to be the lunch...

Roger Emmons: It used to be the...right.

Marlin Weisheit: For them so maybe, he said he would. So, if you guys are okay with that I guess we could, we ought to do a motion that will make that space available, the current space available that the Coroner uses for the Prosecutor's Office and Conference Room and space out at the Drug Court for the Coroner. Just make that an official motion today.

Dan Saylor: Do I need to repeat all that?

Marlin Weisheit: No.

Dan Saylor: I make a motion to open up that space.

Bob Johnson: I second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Roger, would you send her an email...

Roger Emmons: Sure.

Marlin Weisheit: And give her my cell number, I've left her a message but I know she's busy too. And I've talked to her about it in the past. I think she'll be okay with it. It will be a better space for her I think.

Roger Emmons: Okay.

Marlin Weisheit: Thank you.

UNIFORM PAINT COLOR FOR THE JUDICIAL CENTER

Roger Emmons: Next item I discussed separately with Marlin and Dan today, Bob hadn't come in yet, was to discuss establishing a uniform color/finish for painting of the Judicial Center Offices. We've gotten to a point where we've got so many different colors over there that when inevitable touch-ups have to be done, we've got to get, you know, ten (10) different quarts of paint. And so I know we discussed perhaps having Commissioner Saylor be delegated to establish that for us. Of course he would share it with Marlin and Bob as well as to his ideas and then we'll go from there. The reason we had a request, well we have standing requests every year and Bobby is gracious enough to allow one (1) of his employees, sometimes two (2) during the times when they don't have any work, cold weather, rainy season, for them to come up and paint those offices. They have done an excellent job. The individual offices pay for the paint. And, but it came up today because our new treasurer Judy Beem gave me a color slip and they were in the brown type of range. So I think we're going to get to a point where it's going to be a miss-mash of colors. Our maintenance requested we try to uniform it.

Marlin Weisheit: Yeah, we've let each Office Holder pretty well pick what color they wanted to paint but you know, we, this is the first time we've actually been able to repaint the Judicial Center. And it's probably been sixteen (16), seventeen (17) years. It's in bad need of painting. You know each time we get a new Office Holder we're not going to be able to go in there and paint it.

Roger Emmons: Right, right.

Marlin Weisheit: So you know we want it to be something neutral that matches, but we want to get along with the Office Holders too if they want a color that's easy to touch up. And Dan has a little knowledge in the painting business so I thought it would be good to just let him approve it and long as he brings it back to us and we can approve that. But, and I'm okay with just giving him the authority, I mean, hey...

Roger Emmons: We can do that by consensus.

Todd Glass: By consensus.

Marlin Weisheit: By consensus, yeah, yeah. I'm okay with Dan, if you're okay, Bob...

Bob Johnson: (Inaudible) um hum.

Marlin Weisheit: We'll just throw him under the bus and as long as he says it's okay, we'll go along with it, if that's okay.

Marlin Weisheit: And make 'em get with him on it. So...

Roger Emmons: Thank you.

EMERGENCY MANAGEMENT AGENCY DEPUTY DIRECTOR APPOINTMENT

Roger Emmons: Lastly, we, Dallas, our current EMA Director, Dallas Scott, informed me earlier today that the planned new director has changed his mind and so, "You had your Advisory Board this morning, Dallas? Why don't you just get up (inaudible)?" He wanted to make an entrance.

Dallas Scott: I thought maybe we'd just go right on, Dallas Scott, Warrick County EMA. Yeah, we had a special meeting this morning cause Bob decided not to take it. So, and we had a meeting and suggested a person and the Board agreed to that so basically we're needing approval for, for him.

Roger Emmons: I know Todd had some concerns about that Board making a promise but as Dallas points out this gentleman that they've appointed or suggested won't leave, is not going to leave his current job, full time job, unless he has some type of assurance. Nobody would.

Dallas Scott: Correct.

Roger Emmons: And Dallas is the Director but the Council approved some funding for a Deputy Director which would allow for the new person to come in and train for a period of time as I understand it. So I, I felt like the Board, this Board should take some action relative to their Board's action.

Marlin Weisheit: I sat on that Board many years with Dallas and Dan agreed to take my place and he's sitting over there now. We've all had some discussion on this and we're comfortable with what the Emergency Management Board is recommended. I know that. So I would entertain a motion that we allow them to hire, or make an approval for them to hire their one (1) that they recommended. Should we put his name in the minutes? I mean, I...

Roger Emmons: I don't think it would hurt.

Dallas Scott: Yeah, you can. As long as he's gonna be...

Marlin Weisheit: Yeah, and Dave Woolen's gonna, Dave Woolen is, he's been a member of the Board and served over there for many years with us. So...

Dallas Scott: Over sixteen (16)...

Marlin Weisheit: He's done an excellent job. I'd have to say right up front, nobody's going to be able to replace you.

Dallas Scott: Oh, no, no.

Marlin Weisheit: You've done a great job and I appreciate all you've done.

Roger Emmons: Bob might have.

Dallas Scott: Yeah, Bob may have come close.

Marlin Weisheit: But you done a great job and you're gonna be missed. So we think Dave will fit in really well over there and...yep, so...I'd entertain a motion to accept the Board's recommendation to allow them to hire Dave Woolen in the Deputy Director's place and be in the spot to take Dallas's place when he retires.

Dan Saylor: I make a motion to accept the EMA Board of Dave Woolen.

Bob Johnson: I'll second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye, motion carries (3-0).

Dallas Scott: Thank you very much.

Marlin Weisheit: Thank you, Dallas.

Roger Emmons: Thank you, Mr. President.

Marlin Weisheit: Is that all you have, Roger?

Roger Emmons: That's all I have.

WETIP/CONCEPTS IN ACTION FOR PROSECUTOR'S OFFICE

Roger Emmons: I know there was a question earlier about, earlier in the day about a Concepts in Action Agreement with the Prosecutor, and the Prosecutor has, that's been redone so that it's with the Prosecutor and not the County.

Marlin Weisheit: Okay.

Roger Emmons: So I think that's...

Marlin Weisheit: I saw some emails on that too. That's been resolved for now. Okay.

Roger Emmons: Alright, thank you.

COUNTY ATTORNEY
FIRST READING ORDINANCE 2017-01
AMENDMENT TO THE FAIR HOUSING ACT

Marlin Weisheit: County Attorney.

Todd Glass: Alright, thank you, Mr. President. The first item on our agenda, under my items is the consideration of what I believe would be the Ordinance 2017-01 which is merely an amendment of Ordinance 2016-31 and for the Board members benefit, that Ordinance was passed in December to update our Fair Housing Policies simply to make, add actually very minor changes to our fair housing policies. We had to get that done in order to get a grant application in affecting the old jail I believe.

Marlin Weisheit: The old jail.

Todd Glass: So we did do that, knowing that I needed to pretty it up a little bit and direct that what it is, is an amendment to Chapter 91 of our Code of Ordinances. So this Ordinance 2017-01 is simply the, the same Ordinance amended to reflect that it's Chapter 91 of our Code. Otherwise, it is exactly the same. And the one (1) change that actually occurred in the language was the Fair Housing Act does now not use the term disabled or disability. It uses the term handicap. So that's all that really does with the proposed Ordinance in front of you, simply directs it to Chapter 91 amending our Chapter 91 and simply could be read in by heading since it's so lengthy. And I can do that now and that would set it up for a proper motion on First Reading.

Marlin Weisheit: Okay.

Todd Glass: This is a proposed Ordinance 2017-01, an Ordinance amending Ordinance 2016-31 regarding Fair Housing and amending Chapter 91 of the Code of Ordinances of Warrick County for First Reading and a Commissioner can make a motion to approve that Ordinance on First Reading.

Dan Saylor: I make a motion to approve that Ordinance on First Reading.

Marlin Weisheit: Do I have a second?

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. Motion carries three, zero (3-0).

Todd Glass: Thank you. I will take care of the rest next meeting.

Marlin Weisheit: Okay, thank you.

APPRAISAL FOR PROSPECT DRIVE PROPERTY

Todd Glass: We have action also on the Highway Department's purchase of a District I Storage Facility on Prospect Drive. The Council did approve a Resolution this past week expressing interest in purchasing property which was the first statutory step to take for the County to buy land. Now the second step has to be the appraisal of that land. The appraisal is conducted by two (2) licensed appraisers. That appraisal comes back to the Commissioners and at that point in time if they wish they can make an offer to buy the land, but we'll work in conjunction with the Council to move forward with that. But the next step is just go and get it appraised to see what we can buy it for. I don't know if the Commissioners have any two (2) certified licensed appraisers to recommend?

Roger Emmons: We have used numerous over the years. I mean you can name, I mean we've used Greg Wasson, Dave Talley, I mean you could even appoint Rick Reid, our former District I Commissioner, who's in the appraisal business. But I could send, I mean if you want, just let me get some information to you so you can select them that way. I can do that, if that's proper. Do they need to name them in open meeting?

Todd Glass: I would not, it doesn't require that. But I would like the Commissioners to approve the appointment of two (2) licensed appraisers and that they could direct Roger to get that done within the next couple of days.

Marlin Weisheit: I'd entertain that motion just to hire two (2) local appraisers.

Bob Johnson: I make a motion to hire two (2) local appraisers to go out to that piece of property and see what it's worth.

Marlin Weisheit: Have a second?

Dan Saylor: Second.

Marlin Weisheit: Thank you. All in favor say, aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. Motion carries three, zero (3-0). Thank you.

GILKEY CONDEMNATION

Todd Glass: Then, Mr. President, we have two (2) condemnations coming up on mediation. The only one (1) scheduled is the Gilkey Condemnation on outer Lincoln and (Hwy) 261. That mediation is scheduled for February the 7th. And I need a Commissioner representative to attend that mediation with me.

Marlin Weisheit: I think you said to send someone else to do that, Dan?

Dan Saylor: I'd like to recuse myself from that.

Marlin Weisheit: I'd be fine to sit in on that one (1) with you if that's okay with you, Bob.

Bob Johnson: That's fine.

Marlin Weisheit: I don't have a problem with working that day, so, on the 7th.

GRIMM CONDEMNATION

Todd Glass: And then the second condemnation, I don't have a mediation scheduled for that. We can certainly address that one when it comes up. How's that?

Marlin Weisheit: Alright.

APPOINTMENT OF COMMISSIONER WEISHEIT AS REPRESENTATIVE FOR CONDEMNATION MEDIATION

Todd Glass: I do have one (1) other thing not on the agenda.

Bobby Howard: (Inaudible).

Todd Glass: Uh...

Bobby Howard: (Inaudible) to give him power to ...

Todd Glass: Yeah, let's go ahead and do a motion on that. Cause it might be settled.

Marlin Weisheit: Oh, okay, yeah.

Todd Glass: So we want the Board's authority to not only have you attend but also settle the case if possible.

Marlin Weisheit: Okay.

Todd Glass: Thank you.

Marlin Weisheit: I'll entertain that motion to allow me to, if needed to settle the case that day. Give me the authority to do it.

Dan Saylor: I'll make that motion.

Bob Johnson: I second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Thank you, Gentlemen.

HOLD HARMLESS
HUNTINGTON CREEK SECTION A

Todd Glass: And lastly, Mr. President, was mentioned regarding the Newburgh Development Group's Hold Harmless Agreement. This just was finalized today, so I apologize to the Commissioners. This Hold Harmless Agreement was looked at a month or so ago. And the reason why it wasn't approved earlier was that the Homeowner's Association had not been formed. It's now been finalized and I wanted the Hold Harmless Agreement to include the Homeowner's Association. But this involves some structures that were built in the County right-of-way. If you go to that subdivision, the entry walls and entry sign and everything are on the County right-of-way. So this Hold Harmless Agreement protects the County. I drafted this to protect the County in the event that that ever needs to be moved, the developer and/or the Homeowner's Association agrees to be responsible for that and to hold the County harmless from any liability against that action. We had a final edit on that agreement this afternoon which is perfectly fine so it is now ready for you to consider and approve for execution by all three (3) Commissioners. And if you would approve that and sign that then Roger or I can get it to Mr. Miller to sign on behalf of the developer and the Homeowner's Association.

Marlin Weisheit: I know we've been looking at this a couple of months. Glad it's ready. (Inaudible). It takes the liability off the County, saves them from having to move it.

Todd Glass: Right. We're not having them move it right now, but when the time comes, if need be this will protect the County from being responsible for that.

Dan Saylor: What happens if the developer goes bankrupt and the Association doesn't have the money?

Todd Glass: It, that's a good question...

Dan Saylor: We could remove it, we're not liable to put it back in place, correct?

Todd Glass: Correct. That's one (1) reason not to have a Hold Harmless Agreement with just a developer. You want also to either the developer individually liable or the Homeowner's Association, which is more likely to still be around in one (1) manner or another. Homeowner's Association will not be able to dissolve itself unless something was provided for outstanding liabilities like this. But this agreement requires the Homeowner's or the developer to carry a million dollar ($1,000,000.00) on a liability insurance among other things. So that's a good question, Commissioner. The, it's, it's a better contract for the County with the Homeowner's Association attached to it. The developer did not want him to be individually liable, so it had to be one (1) or the other. He's completed the formation of the Homeowner's Association, so with the Homeowner's Association on the Hold Harmless Agreement and I think that it's a safe agreement to have the County enter into.

Roger Emmons: Todd, again that's Huntington Creek Section A?

Todd Glass: Section A, yeah.

Roger Emmons: Okay.

Todd Glass: Yes, there on the second whereas paragraph, Roger.

Roger Emmons: I don't have it.

Todd Glass: Oh, I'm sorry. I'm looking at it, and that's what it says.

Marlin Weisheit: And you're recommending that we go ahead and approve this today, right?

Todd Glass: Yes. And with your approval and signature then Roger most likely will take it and get the developer and Homeowner's Association on it also.

Marlin Weisheit: With that said, I would entertain a motion.

Dan Saylor: I make a motion to approve the Hold Harmless Agreement with Newburgh Development Group and the Huntington Creek Homeowner's Association.

Bob Johnson: Second.

Marlin Weisheit: Second, all in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. Motion carries (3-0).

Todd Glass: Thank you, Mr. President.

Marlin Weisheit: You have anything else?

Todd Glass: No, thank you. Thank you.

Marlin Weisheit: That is it. Okay.

(Hold Harmless, Huntington Creek, is located on Pages 39 through 42 of these Official Minutes)

COUNTY AUDITOR
CLAIMS

Marlin Weisheit: County Auditor, you have some Claims for us. She's gonna let us off easy today, I hope.

Debbie Stevens: Debbie Stevens, County Auditor. Yeah, this one (1) won't be so hurtful. The total Expenses were sixteen thousand four hundred forty-two dollars and fifty-five cents ($16,442.55). Total Courts and Manuals, four hundred seventy-five thousand two hundred forty dollars and ninety-six cents ($475,240.96) for a Total of four hundred ninety-one thousand six hundred eighty-three dollars and fifty-one cents ($491,683.51).

Marlin Weisheit: Looking for a motion to pay the Claims.

Bob Johnson: I make a motion to pay the Claims.

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

Debbie Stevens: Thank you.

(Claims are located on Pages 42 through 43 of these Official Minutes)

MALCON CONTRACT CANCELLATION

Debbie Stevens: I have just a couple of other items. First one (1) is to ask, ask you to exercise the thirty (30) day out clause to end the MalCon Consulting Contract for the Cost Allocation Plan for Warrick County.

Marlin Weisheit: You guys remember, we just passed that here about a month ago. Todd was going to review the thirty (30) day out to make sure it was...

Todd Glass: It is in there under the acceptance clause. It states either party may terminate the agreement with a thirty (30) day written notice. Termination would be subject to complying with all services and payments up through the termination date.

Dan Saylor: Who provides the written notice? You or her?

Todd Glass: That would probably most preferably would be Counsel on behalf of the Board.

Marlin Weisheit: Who else works, what other offices work with him on that? Is it mainly through your office?

Debbie Stevens: It is.

Marlin Weisheit: Yeah.

Debbie Stevens: Cost Allocation Plan is really a fiscal matter. It's an audit, it should be an Auditor's vendor to procure. Cost Allocation Plan is not a County wide type contract that would, you know, be negotiated or looked into by Purchasing or, not that I mind the involvement, I don't. However we currently worked with a consultant on our Title IV-D Reimbursements. We have a contract consultant with the Clerk's Office and I'd like to have that continuity throughout for the Title IV-D Reimbursements. And so this was not my preferred vendor, and in fact I've had maybe one (1) contact in two (2) years with this particular vendor and was even told a couple of weeks ago that the 2015 Cost Plan, Cost Allocation Plan was complete and it's never been delivered to my office.

Marlin Weisheit: I've not talk with the other two (2), I, it's not an argument with me. I mean, I...

Bob Johnson: I'm, I'm okay with it.

Roger Emmons: It is slightly higher that what was approved previously with MalCon, Charles Malinowski.

Bob Johnson: Excuse me?

Roger Emmons: It's slightly more costly.

Marlin Weisheit: The other one (1) you're talking about? Which one (1) are you talking about?

Roger Emmons: Cost, the Cost Allocation Plan Agreement with MalCon.

Debbie Stevens: And you haven't seen that yet, there's a, you can take a few more meetings, another month if you want to look at the contract I'm proposing. And that vendor is most willing to match whatever the previous contract was. So I think he put his...

Marlin Weisheit: Is that Mr. Dossett?

Debbie Stevens: Yes. Jeff Dossett at Dossett Consulting. So he's more than willing to match, make it equal to what you had previously approved.

Marlin Weisheit: And he's already working in the Clerk's Office?

Debbie Stevens: He is correct. And we work with him, of course, because he comes to our office for the transactions for each quarter for Title IV-D, for any of the child support work in order to turn in those quarterly incentive plan, claims, to get the reimbursement back to the County.

Todd Glass: Mr. President, could Dossett provide a proposed contract that the Commissioners could consider at the same time that they terminate the existing...?

Debbie Stevens: Yes, and I did actually send it in an email, you haven't had a chance to read it because I just did it a few minutes ago.

Todd Glass: Oh, okay.

Debbie Stevens: So the, the change would, the only change which I would have him, I could go back to him, have him make, would be, it's a sixty dollar ($60.00) reduction per year, is basically what we're talking about. So I could have him redo the compensation portion of the contract and I'll get that, as soon as I get that from him I will email it to all of you.

Marlin Weisheit: Why don't we, would it be okay with everybody if we just table it for two (2) weeks 'til we get the new contract that like you say, do it all in one (1) meeting? Would that work?

Debbie Stevens: Well, we will exceed the thirty (30) day, that thirty (30) day window that we have because MalCon was approved on December 12th, right? Or was it the last meeting on the 28th?

Todd Glass: No, you can terminate the agreement at any time by...

Debbie Stevens: At any time...

Todd Glass: A thirty (30) day notice.

Debbie Stevens: A thirty (30) day notice, okay.

Marlin Weisheit: That's what I thought it was, that's what I was thinking.

Debbie Stevens: I see what you're saying. Yes, and there's been no work done. There's been nothing collected by him for the 2016, in fact he can't until we get all of our financials recorded for 2016.

Marlin Weisheit: Oh, okay.

Todd Glass: And if it could be tabled...

Debbie Stevens: So this is for 2016.

Todd Glass: The Commissioners would have the new contract...

Debbie Stevens: Correct.

Todd Glass: In hand and they could do both with one (1) act.

Debbie Stevens: Sure.

Marlin Weisheit: You okay with that, Bob?

Bob Johnson: Yes.

Marlin Weisheit: Just look for a motion to table for two (2) weeks or our next meeting or until the other contract is here for you to review?

Todd Glass: You could table it to the next meeting.

Marlin Weisheit: If you could go ahead and forward that to Roger and to Todd so they can have it reviewed before our next meeting that would help.

Debbie Stevens: Absolutely.

Marlin Weisheit: Okay, and, Roger, you can send it on to us and we can look through it.

Roger Emmons: Sure, sure.

Marlin Weisheit: Sounds good.

Debbie Stevens: Okay.

Marlin Weisheit: We'll give it, highly consideration.

Debbie Stevens: Thank you, I appreciate that from each one (1) of you.

Todd Glass: Motion to vote?

Roger Emmons: Motion to table?

Bob Johnson: I make a motion to table MalCon's, to ending MalCon's Consulting Contract until next meeting.

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

Debbie Stevens: Okay.

REVISION OF THOMSON REUTERS CONTRACT

Debbie Stevens: One (1) more, this is, this is just a heads up. It will have to be on your next meeting agenda, but I did forward to you a revision to a letter of authorization. In November, I believe you approved authorization for Thomson Reuters for what's considered, like training days. But basically they come to, as a vendor, to work with us through the system for final settlement, also the abstract. And then that contract, those days would be shared with the Treasurer's Office and so knowing that we had a new Treasurer coming with new staff, they asked before, after we had signed the previous commitment, for twelve hundred dollars ($1,200.00) per, we asked them to send us a quote for five (5) days and it did reduce the cost to a thousand dollars ($1,000.00) a day and we only pay as we use. So it's five (5) days at one thousand dollars ($1,000.00). The Treasurer's Office will likely need a day or two of training prior to the tax, their

reduction and add some days to it. So this I have also emailed to you and I'll just make sure that it's on the next agenda for us to get signed and back to Thomson Reuters.

Marlin Weisheit: That will give you plenty of time?

Debbie Stevens: Yes.

Marlin Weisheit: Okay. Sounds good. Thank you.

Debbie Stevens: Thank you.

COUNTY ENGINEER/HIGHWAY
OAK GROVE ROAD PHASE II CHANGE ORDER

Marlin Weisheit: Okay, County Engineer/Highway.

Bobby Howard: The only item that I have tonight would be the Oak Grove Road, Phase II, Change Order #3. This Change Order is required. It is a payment adjustment due to Subgrade Retreatment, cement stabilization, due to INDOT specification. Soil samples that were done required a five percent (5%) cement stabilization instead of the standard specs. Bid had gone up from four percent (4%) so that includes an adjustment of seventeen thousand six hundred and seventy-eight dollars and forty-seven cents ($17,678.47) that the contractors do per INDOT specifications and I would recommend approval.

Marlin Weisheit: Look for a motion.

Dan Saylor: I make a motion for the Oak Grove Phase II Change Order #3.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Thank you.

Bobby Howard: Thank you. My other item was covered earlier under the County Attorney's business, so that's all I have.

Marlin Weisheit: Okay.

Bobby Howard: Thank you.

Marlin Weisheit: Thanks, Bobby.

(Oak Grove Phase II, Change Order #3 is located on Pages 44 through 45 of these Official Minutes)

COUNTY PURCHASING
PARKS DEPARTMENT
AWARDING PURCHASE OF NEW TRACTOR AND ATTACHMENTS

Marlin Weisheit: County Purchasing.

Joe Grassman: Joe Grassman, Purchasing Manager. First item I have on the agenda in my business would be the purchase, the Parks Department purchase of a new 2017 New Holland tractor with seven (7) attachments. I opened and read the bids for those, for that tractor at the last meeting, December, December 27th. It was taken under advisement to give Bobby, not Bobby, to give Ben Labhart and myself time to look over those bids, because they were somewhat involved, and make sure we were, that the lowest bidder was bidding exactly what we expect. And as we went through the bids, he, he did indeed, he was six thousand eight hundred forty-five dollars ($6,845.00) less that the next lowest bid. So I'm going to recommend that we do award the purchase of that new 2017 New Holland, sixty (60) horsepower tractor with seven (7) attachments to Blesch Brothers Equipment.

Marlin Weisheit: What was the total price of that bid? I've got it wrote down in (inaudible).

Joe Grassman: Forty-two thousand twenty-five dollars ($42,025.00).

Marlin Weisheit: And that's, that's for the Parks Department?

Joe Grassman: It's for the Parks Department.

Marlin Weisheit: Out of their budget?

Joe Grassman: Yes.

Marlin Weisheit: Lookin' for a motion to approve the lowest bid to Blesch Brothers for forty-two thousand twenty-five dollars ($42,025.00).

Dan Saylor: I make a motion to purchase the New Holland tractor for forty-two thousand twenty-five dollars ($42,025.00) for the Parks Department.

Bob Johnson: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. Motion carries three, zero (3-0).

Joe Grassman: Thank you.

Marlin Weisheit: Thank you, Joe.

ADDITIONS TO CONTRACT WITH MOUNTS ELECTRIC TWO LIGHT SIGNALS

Joe Grassman: Second item involves our maintenance agreement to maintain and service our signal lights throughout the County. We have one (1) out at Bell and Oak Grove Roads and we have one (1) at Libbert and Wellness Trail. The one (1) at Libbert and Wellness Trails is our responsibility as we speak. The Bell Oaks Road, the Bell and Oak Grove Roads will be our responsibility 'til May. I contacted Mary Relleke with Mounts and they would, they won't, include the new, the, the Bell Road or the Libbert and Wellness Trail location immediately for the same price as all our other contracted locations and then they will add Bell and Oak Grove Roads in May for the same prices and continuances under our current contract which we have in effect until, let's see, when does that expire? Here we go. It expires April 30th, 2018. So I guess my request would be that you allow Mounts to add Libbert/Wellness Trail Road location immediately and then in May at the Bell Oak, Bell and Oak Grove Road location to our contract.

Marlin Weisheit: You're okay with that too, aren't you, Bobby? I guess you got the emails on them as well this morning? I'd look for a motion to approve as Joe has stated to Mounts Electric on those two (2) lights.

Bob Johnson: I make a motion to go ahead and contract with Mounts Electric for the two (2) lights.

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Bob Johnson: Aye.

Dan Saylor: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0).

Joe Grassman: Alright, thank you.

Marlin Weisheit: Thank you, Joe.

(Mounts Electric Contract is located on Page 45 of these Official Minutes)

JUDICIAL CENTER SECURITY EQUIPMENT CHANGE ORDER

Joe Grassman: And finally, we, we awarded Lee Hayden and All American Lock a contract to improve the, our security equipment in the Judicial Center. It involved mostly new cameras and a new access panel. It was done by RFP's, requests and specifications within. There has been, I need to get the numbers on this, okay, so anyway, Lee Hayden got with me and, and told me that he thought that we needed to do a few more things and that there would be increased cost basically amounting to a change order to the original specifications. We, I contacted Lee. I said, give us a breakdown of those things that you think need to be included that weren't included in the original RFP. Make a list of those, what their cost is and then we would meet with the panel which was, which was made up of President Weisheit, Doug Duncan, myself, Brian Waters, Security, Head of Security at the Judicial Center. And we discussed each item individually, what, asking basically what it was that he was proposing, you know what was it's function, did we need it, was it discussed in a walkthrough that we had prior to even issuing the RFP's and was it included in specifications. As it turned out the items kind of fell into three (3) categories. They were the items that were not in the RFP originally, or not an original specifications but were deemed necessary by the Security Department in the Judicial Center. In other words items they thought we should have that we didn't include in the original request. There were, there was an item that the vendor admittedly missed that effected the cost, and to include it would involve more money. And then there were some items that they recommended, that the vendor recommended, that I think were agreed upon with the security people over there that these were things that weren't necessarily in the original RFP but were things that were really, probably could use. And to make that system really, you know, update it and technologically on the leading edge, you know. So anyway we, we discussed it with Lee, I think the panel, I'm speaking from the panel, and I hope they agree with me, I think we left that meeting feeling like everything that he had recommended we would do, we should do. It was an additional twelve thousand dollars ($12,000.00) to his original bid of forty-two thousand dollars ($42,000.00). But even at that is was still forty thousand dollars ($40,000.00) less than the next lowest bid. So I, I think, I'm saying it's my recommendation that we accept that change order of twelve thousand dollars ($12,000.00) even and go ahead and do the things that Lee has recommended.

Marlin Weisheit: And I appreciate you setting that meeting up. It was very informative. I've been over and looked at the new cameras, the qualities of the pictures, the security, the safety, it's, it's tremendous what we've put in the new cameras. We all kind of overlooked, tried to do it as conservative as we could when we put it in, but by leaving out a few things and leaving a few of those existing cameras on the old analog system, I didn't understand. We've got an eleven (11) second delay in some of them photos there. And when you're dealing with prisoners in that courthouse, I'm sure the Sheriff will agree with us, and Sargent Waters was very informative. I didn't know we was actually having those kind of delays there. And the safety, you know when we've spent forty thousand ($40,000.00) and it's really improved everything. Both Sargent Waters and Lee have assured me this twelve thousand ($12,000.00) will finish it out

actually considered when the bids come in. And this was the local company with a local service and service time. I'm happy we done this, but I, I see where we need to spend this twelve thousand ($12,000.00) I mean it just needs to be, to finish up for security in that building. We'll have first class pictures of everything and the equipment and the workstations for the security over there. It'll be helpful over there. I'd ask for a motion for a change order I guess of twelve thousand dollars ($12,000.00) to finish up with All American and Lee Hayden on this security for the Judicial Center.

Todd Glass: Mr. President?

Marlin Weisheit: Yes, Sir?

Todd Glass: I, we might have to look at that because it's, since it's with the Judicial Center, my recollection is that a bidded project like that, to change it can't exceed ten percent (10%). So if, if...

Marlin Weisheit: Did you know we're adding equipment?

Todd Glass: Um hum. From the original, I could be wrong. I'm thinking from my memory on the bidding statutes. If, if that motion entertained, maybe you could allow me to double check that in the morning...

Marlin Weisheit: Sure.

Todd Glass: To make sure that it's on the up and up.

Marlin Weisheit: Yep, as long as it meets with Legal Counsel. Sure, and anything else.

Joe Grassman: Okay.

Todd Glass: Hopefully it does.

Joe Grassman: I was thinking that...

Marlin Weisheit: (Inaudible) rebid this section, we need...?

Joe Grassman: I was thinking that the statute, for the statute that I bid it under, you know, made, made available to us, the, the eventuality of change orders...

Todd Glass: Yeah.

Joe Grassman: Just that we have to make those change orders public to all parties involved. It doesn't say anything about any percentage.

Todd Glass: Um hum, yeah. Let's compare notes...

Joe Grassman: Yeah.

Todd Glass: In the morning if the Commissioners direct me to...

Joe Grassman: Sure, okay.

Todd Glass: And we'll just make sure that it's in full compliance.

Joe Grassman: Alright. So we going to do it contingent on your approval then?

Todd Glass: Depends on them.

Joe Grassman: Okay.

Marlin Weisheit: Sounds like a good motion to me.

Bob Johnson: I'll make a motion to go ahead and check out the...

Todd Glass: You can go ahead and approve the change order...

Bob Johnson: Change order...

Todd Glass: For twelve thousand ($12,000.00).

Bob Johnson: For twelve thousand dollars ($12,000.00) upon Counsel's approval.

Marlin Weisheit: Have a second?

Dan Saylor: Second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Motion carried 3-0). Okay, you and Todd work it out.

Joe Grassman: Okay.

Marlin Weisheit: With Sargent Waters, see what we can do.

Joe Grassman: Thank you, that's all I have.

Marlin Weisheit: Figure out what we've got to do to finish up that project. Thank you, Gentlemen.

(Judicial Center Security System Equipment Change Order is located on Page 46 of these Official Minutes)

COUNTY SHERIFF
TRANSFER OF K-9 DOG TO NEWBURGH POLICE DEPARTMENT

Marlin Weisheit: Sheriff.

Brett Kruse: Brett Kruse, Warrick County Sheriff. I had a deputy K-9 handler submit his resignation two (2) weeks ago and he has a dog that is six (6) years old. It has a bulging disk in its back. And I've discussed it with him, he's talked to John Haller who trains our dogs. The deputy is going to Newburgh Police Department. I would like to transfer that dog to Newburgh Police Department. They're willing to take it. My reasoning is, I have a manpower shortage and cannot train anybody for a year. That dog only has about two (2) years left in him. So he wouldn't be worth me spending the money on training a handler with that dog and that dog won't go through, they don't think the dog would make it through the training. Chief Mitchell is here with Newburgh. He has a letter prepared to submit to the Commissioners. If you will transfer the dog to them, they will take care of the dog and the dog will be available to us when we need it. Just like the agreement we have with Chandler when they gave us the canine.

Marlin Weisheit: And you know the thing about the, usually a dog at the end of their career, they usually, the handler usually agrees to keep them and...

Brett Kruse: Right.

Marlin Weisheit: It'd be good to keep the canine with the Officer Scully as he makes his transition. While he's working for Newburgh, a lot of times if a canine is needed he'll come out and help us. I know that's, we all share dogs...

Brett Kruse: Right.

Marlin Weisheit: In our departments.

Brett Kruse: That's what I'd like to do if you will transfer the, the dog to them (inaudible).

Marlin Weisheit: So I'd entertain a motion that we allow Sheriff Kruse to transfer the existing canine that's assigned to Officer Scully to be able to transfer to the Newburgh Police Department from the Warrick County Sheriff's Department. The Newburgh Police Department is requesting the transfer of ownership of K-9, Lux, from the Warrick County Sheriff's Department to the Town of Newburgh, Office of the Newburgh Police Department.

Dan Saylor: So the Newburgh Police Department will assume all responsibility...

Brett Kruse: Sole ownership.

Dan Saylor: Sole ownership?

Marlin Weisheit: Um hum.

Eric Mitchell: Financial cost, vet bills, food...

Todd Glass: (Inaudible) understand.

Marlin Weisheit: You get two (2) officers for the price of one (1).

Eric Mitchell: Yeah, pretty much.

Marlin Weisheit: They're both pretty good officers.

Brett Kruse: And they've got, they've got one (1) canine now. This will make their second and you know for however long the dog is good for, two (2) years or three (3) years, we'll, we'll have him available to us when we need it and they'll be paying for it.

Roger Emmons: Chief, can we get your name again?

Eric Mitchell: My name is Eric Mitchell.

Roger Emmons: Eric Mitchell with a 'T'?

Eric Mitchell: M-i-t-c-h-e-l-l.

Roger Emmons: Okay, thank you. 'C' or a 'K'?

Marlin Weisheit: Now, Sheriff, we're supposed to be recruiting officers from Newburgh instead of them recruiting officers from us, you know.

Brett Kruse: Yeah, he stole this one (1).

Marlin Weisheit: Yeah, I know. Just wanted to bring that, make that...

Brett Kruse: And I had two (2) retire last week or submit their letters. One (1) of them's gone, the other's leaving the 29th, so it would be virtually impossible for me to send someone to K-9 training.

Marlin Weisheit: Yeah, so I'd entertain a motion to allow this transfer.

Dan Saylor: I make a motion to transfer ownership of our K-9 to Newburgh Police Department.

Bob Johnson: I'll second.

Marlin Weisheit: All in favor say, aye.

Dan Saylor: Aye.

Bob Johnson: (Inaudible).

Marlin Weisheit: Aye. (Motion carried 3-0). Thank you, Gentlemen, and good luck.

Brett Kruse: Thank you.

Eric Mitchell: Thank you, Guys.

Marlin Weisheit: You know, 'til you get staff again I'd just ask Chief Mitchell to cover all your calls all the way up to (Hwy) 66 or something.

Dan Saylor: I agree with that.

Brett Kruse: If he's gonna do that, he might as well come north to the township line.

Marlin Weisheit: Anywhere you draw the line, have him help you out a little bit there.

Brett Kruse: Thank you.

Marlin Weisheit: Yep.

COMMISSIONER ITEMS FOR DISCUSSION

Marlin Weisheit: Okay. Roger, do you have anything else that we've missed?

Roger Emmons: No, Mr. President, not unless you can think of something I left out.

Marlin Weisheit: I think you've done well. Commissioner Johnson?

Bob Johnson: I have nothing, thank you.

Marlin Weisheit: Commissioner Saylor?

Dan Saylor: Just the Local Planning Council and Roger took care of that, so…

Marlin Weisheit: Yep, well I'd entertain one (1) more motion.

Dan Saylor: I make a motion to adjourn.

Bob Johnson: Second.

Marlin Weisheit: All in favor, aye.

Dan Saylor: Aye.

Bob Johnson: Aye.

Marlin Weisheit: Aye. (Meeting was adjourned 3-0).

ADJOURNMENT: Meeting adjourned at 5:05 PM.

WARRICK COUNTY BOARD OF COMMISSIONERS

Marlin Weisheit

MARLIN WEISHEIT, PRESIDENT

Dan Saylor

DAN SAYLOR, VICE PRESIDENT

Robert H. Johnson Jr.

ROBERT H. JOHNSON, JR., MEMBER

ATTEST: Deborah K. Stevens

DEBORAH K. STEVENS, AUDITOR
WARRICK COUNTY, INDIANA

Minutes transcribed by Kristine Georges

FF-11-0.
Bieber Estate:

FILED
DEC 08 2017
WARRICK COUNTY
AREA PLAN COMMISSION
12/2/17

ACCU SURVEYING & ENGINEERING, LLC
10579 OAK GROVE ROAD
NEWBURGH, IN 4763
812-858-9268
812-858-9399 FAX
ACCU@SPEEDEX.NET

December 6, 2016

TO: The Honorable Board of County Commissioners
Warrick County, Indiana

RE: BIEBER ESTATES SUBDIVISION
STREET ~~DRAINAGE~~ PLAN

Dear Sirs:

We are adding only one (1) building site to this subdivision. Therefore, we are requesting that NO improvements be required to Maxville and Winsett Roads.

Sincerely,

William Y. Bivins, PE-PS

BOARD OF COMMISSIONERS:
Martin Weisheit
Dan Sayler
Bob Johnson

ATTEST:
Auditor
Date: 1-9-17

Utilities Consulting Co., Inc.
P.O. Box 441 Newburgh, IN 47629 • PH: (812) 463-3989 • consulting100@att.net

December 29,2016

FILED
JAN 03 2017
WARRICK COUNTY
AREA PLAN COMMISSION

Warrick County Area Plan Commission
107 W. Locust St. #201
Boonville, IN 47601

Attention: Sherri Rector

RE: Lot 1,2,3 Engelbrecht Place Section 2 Phase IV (Street Acceptance)

The undersigned hereby certifies that 218' of Park Place Court has been completed As per attached Plan & Profile and in accordance with Warrick County Commissioners Approved Plans

The Roadway was completed by Metzger Construction and the Developer Englebrecht Development L.L.C. by managing member Allan Holweger

Certified By _____ Date 12-29-16

If you have any questions please call or e-mail me at the above number.

Sincerely,

James H. Biggerstaff
President

Encl.

Engelbrecht Place

Street Acceptance

Date: 1-3-17 Receipt#: 21664

NAME OF SUBDIVISION: Engelbrecht Place Sec 2 Ph IV

as recorded in _____ in the office of the Recorder of Warrick County, Indiana.

I hereby request acceptance of the following streets for maintenance by the County:

NAME OF STREET	NO. OF LINEAL FEET
Park Place	218'

Subdivision Developer

This request is accompanied by a certificate of Douglas McDonald, Licensed Land Surveyor-Engineer, that the streets were constructed in accordance with the plans approved by the Board of County Commissioners.

A SMALL COPY OF THE SUBDIVISION PLAT MUST ACCOMPANY THIS REQUEST FOR STREET ACCEPTANCE.

I have inspected subject streets and recommend acceptance.
subject to County Board approval & secondary plat approved & recorded

County Highway Engineer

ACCEPTED:
Date: 1-9-17

BOARD OF COUNTY COMMISSIONERS

ATTEST: COUNTY AUDITOR

This instrument was prepared by :
Jim Biggerstaff

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.
Jim Biggerstaff

Huntington "B" Acceptance.

Street Acceptance

Date: December 19, 2016 Receipt#: 21657

NAME OF SUBDIVISION: Huntington Creek Section "B"

as recorded in 2004R-010975 in the office of the Recorder of Warrick County, Indiana.

I hereby request acceptance of the following streets for maintenance by the County:

NAME OF STREET	NO. OF LINEAL FEET
Huntington Drive	731.77
Huntley Court	419.27
Devon Court	597.37
Ashton Court	530.00

Aaron Miller, Newburgh Development Group
Subdivision Developer

This request is accompanied by a certificate of Anthony D. Wilson, PE Licensed Land Surveyor-Engineer, that the streets were constructed in accordance with the plans approved by the Board of County Commissioners.

A SMALL COPY OF THE SUBDIVISION PLAT MUST ACCOMPANY THIS REQUEST FOR STREET ACCEPTANCE.

I have inspected subject streets and recommend acceptance.
Subject to new Stop Signs & Section 4 Held Hardness

County Highway Engineer

ACCEPTED:
Date- 1-9-17

BOARD OF COUNTY COMMISSIONERS

ATTEST: COUNTY AUDITOR

This instrument was prepared by :
Andy Easley Engineering, Inc.

I affirm, under the penalties for petjury, that I have taken reasonable care to redact each social security number in this document, unless required *by law*.

AE

ANDY EASLEY ENGINEERING, INC.
1133 WEST MILL ROAD, SUITE 205
EVANSVILLE, INDIANA 47710
TELEPHONE (812) 424-2481
FACSIMILE (812) 425-3463
www.easleyengineering.com

CIVIL ENGINEERS
LAND SURVEYORS
REGISTERED IN
INDIANA • KENTUCKY

December 21, 2016

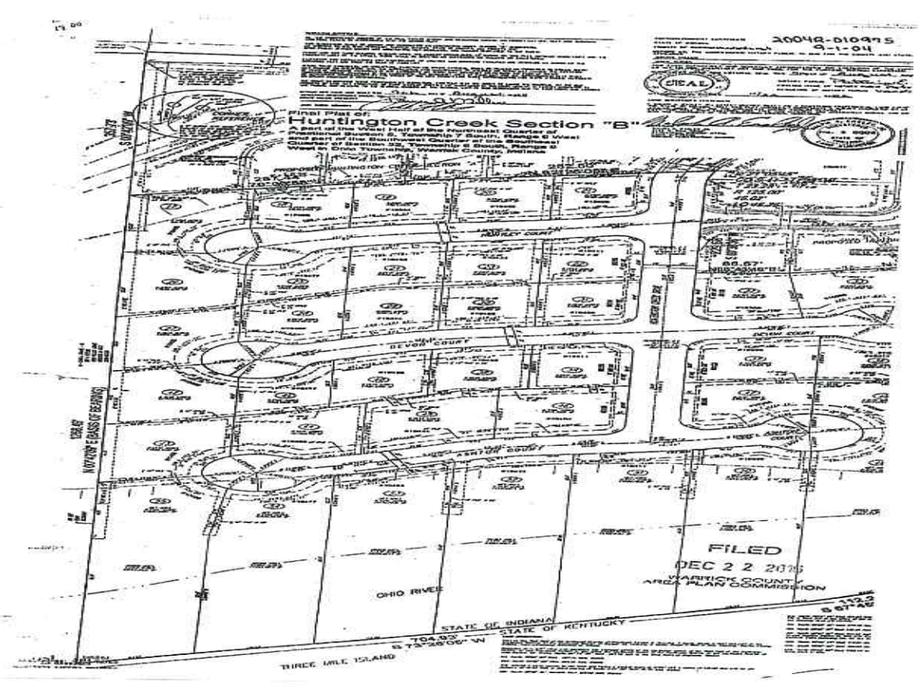
Certificate of Completions
Streets and Drainage

Huntington Creek Section "B"
Ohio Township, Warrick County, Indiana

This letter is to certify that the streets and drainage of the above referenced subdivision were constructed in accordance with the Plans approved by the Board if County Commissioners.

FILED
DEC 2 2 2016
WARRICK COUNTY
AREA PLAN COMMISSION

Anthony D. Wilson
Indiana Professional Engineer
Indiana Registration No. 21442



Huntington Creek

NEWBURGH DEVELOPMENT GROUP LLC

FILED
DEC 2 2 2016
WARRICK COUNTY
AREA PLAN COMMISSION

5144 State Road 261
P.O. Box 1205
Newburgh IN. 47630
Tel. 812-853-9883
Fax 812-490-3309

December 21, 2016

Warrick County Area Plan Commission
Sherri Rector
Executive Director
Room 201
107 Locust Street
Boonville IN. 47601

SUBJECT: TIME EXTENSION REQUEST FOR THE INSTALLATION OF SIDEWALKS SECTION B

Dear Mrs. Rector:
Newburgh Development Group, LLC (NDG) has sold all lots in Huntington Creek. We are currently attempting to release the financial institution (Cecilian Bank) from the letter of credit. NDG would like to leave a cashier's check with the Warrick Area Planning Commission to cover the cost of remaining sidewalks associated with Huntington Creek Section "B". NDG has completed the streets and drainage. We are asking for a reduction and waiver of the Ordinance.

We would appreciate you allowing NDG the calendar year of 2017 to complete the sidewalk improvements.

NEWBURGH DEVELOPMENT GROUP LLC

Sincerely,

Aaron A. Miller
Manager

BOARD OF COMMISSIONERS:

Marlin Weisheit

Dan Saylor

Bob Johnson

ATTEST:

Auditor
Date: 1-9-17

AE2

FILED
DEC 2 2 2016
WARRICK COUNTY
AREA PLAN COMMISSION

ANDY EASLEY ENGINEERING, INC.
1133 WEST HILL ROAD
EVANSVILLE, INDIANA 47710
TELEPHONE (812) 424-2491
FACSIMILE (812) 425-2103
EMAIL: easley@evansville.net
www.easleyengineering.com

CIVIL ENGINEERS
LAND SURVEYORS
REGISTERED
INDIANA • KENTUCKY • ILLINOIS

$ amt as amended

August 5, 2004
Updated: December 19th, 2016

CERTIFICATE OF COMPLETION
SIDEWALKS

Huntington Creek Section "B"
Ohio Township, Warrick County, Indiana

This is to certify that a portion of the sidewalk system has been installed in subject subdivision. The linear footage of remaining sidewalk and a contingency amount are as follow:

NO.	DESCRIPTION	QUANTITY	UNIT PRICE	EXT.
1.	Sidewalk	1314' ~~1,207.40~~ L.F.	$12.00/L.F.	~~$14,488.80~~ @ 15,768.00
2.	Contingency	15 %	~~$2,173.32~~ @ 2,365.20	$2,173.32 @ 2,365.20
			TOTAL	~~$16,662.12~~ @ 18,133.20

The developer of Huntington Creek Section "B" requests to reduce the letter of credit to the total shown and an extension of one year on his letter of credit to complete the above listed items

Anthony D. Wilson
Professional Engineer
Indiana Registration No. 21442

ANTHONY DEAN WILSON
REGISTERED
No. 21442
STATE OF
INDIANA
PROFESSIONAL ENGINEER

cc: Bruce Miller

Newburgh Development Group

FILED
FEB 0 2 2017 KG.

TeamViewer IT Remote Management Contract

- Approved on January 9, 2017.
- End-User License Agreement ITBrain
- $849 annual cost.

TeamViewer End-User License Agreement for ITbrain

If the place of acquisition or your (main) place of residence are outside the USA, South America, or Canada, the provisions of our End User License Agreement under clause A shall apply to our contractual relationship.

If the place of acquisition or your (main) place of residence are in the USA, South America, or Canada, the provisions of our End User License Agreement under clause B shall apply to our contractual relationship.

A.

1. Contents and formation of the Agreement

1.1. Parties and subject matter.
The provisions of the present End User License Agreement (EULA) shall regulate the legal relationship between TeamViewer GmbH, Jahnstr. 30, 73037 Goeppingen / Germany ("**TeamViewer**") and its customers ("**Customer**") in respect of the provision of a standard software and the rendering of associated services. ITbrain is comprised of various independent modules (each module a "**Software**"). They may also be used separately. In addition, TeamViewer provides servers for establishing encrypted connections (handshake) and for the transmission of data packages (routing) in connection with the use of the software ("**Server Services**"). The use of ITbrain requires in any event a free full version of TeamViewer. However, ITbrain is neither part of the TeamViewer license, nor is the corresponding TeamViewer license part of the ITbrain license or of its modules. If the Customer wishes to use ITbrain, a paid-up ITbrain license as well as a full version of TeamViewer are required. Customers of ITbrain may use the free version of the TeamViewer license for the purpose of using ITbrain. In so doing, the Customer must accept the EULA of the full version of TeamViewer. The use of ITbrain and of its modules therefore shall require acceptance of the provisions of this EULA as well as the EULA of the full version of TeamViewer. This EULA shall furthermore apply accordingly to associated software, which may be used via the browser, and to apps for mobile terminals (e.g. iOS, Android) ("**Apps**") as well as to the features and functions comprised in the software. The same shall apply to support services, which to a varying extent, depending on the stipulated service contents, may also become the subject matter of the Agreement. In detail, the following modules are available:

(i) **ITbrain Monitoring & Asset Management** (cf. https://www.itbrain.com/services/assetmanagement/)

(ii) **ITbrain Anti Malware** (cf. https://www.itbrain.com/services/anti-malware/)

(iii) **ITbrain Backup** (cf. https://www.itbrain.com/services/backup/)

1.2. Formation and contents of the Agreement.
A contract for valuable consideration pursuant to the present EULA shall be formed if (i) the Customer goes through the web-based order process on the ITbrain website (www.itbrain.com), ultimately clicking the "confirm purchase" or "pay now" button or if (ii) the Customer and TeamViewer sign a written order form, (iii) the Customer orders by phone and receives an order confirmation by e-mail. Details about the Agreement (e.g. selected software, range of functions, term) shall follow from the options selected by the Customer and the information by TeamViewer during the order process or on the order form or in the order confirmation e-mail (hereinafter together "**Order**", these EULA and the Order hereinafter together "**Agreement**").

1.3. No deviating regulations.
The application of provisions different from or in excess to these EULA shall be excluded. This shall apply in particular to the Customer's general terms and conditions, even if TeamViewer accepts an Order from the Customer, in which the Customer refers to its general terms and conditions and/or if they are attached to a contractual document of the Customer and if TeamViewer does not object.

1.4. Obligations in electronic commerce.
If the Customer is an entrepreneur within the meaning of section 14 of the [German] Civil Code (BGB), i.e. an individual or legal entity or an incorporated partnership, which upon conclusion of the transaction performs its commercial or self-employed activity ("**Entrepreneur**"), the following shall apply: section 312i para. 1 no.1, 2 and 3 as well as section 312i para. 1 sentence 2 BGB, which provide for certain obligations in the part of TeamViewer in electronic commerce, shall herewith be excluded.

1.5. Test phase.
If the Order provides for a test phase, the Customer may within seven (7) calendar days from conclusion of the contract terminate or rescind the Agreement without notice with immediate effect. In this case, the Customer shall be refunded any already paid user fee or respectively, the purchase price.

1.6. 14-day cancellation right.
If the Customer is a consumer within the meaning of the relevant legal specifications, he shall be entitled to cancel the purchase within 14 days. This may be done informally, without stating reasons, by e-mail to sales@teamviewer.com.

2. Performance specifications and Software activation

2.1. Performance specification.
The Software's functions shall follow from the product description available in the webshop and in particular from the range of functions specified in the Order ("**Performance Specification**"). The contractually stipulated properties of the software and server services shall be conclusively determined by the Performance Specification, and not by verbal or written statements made by TeamViewer in the lead-up to the conclusion of the Agreement. Individual functionalities of TeamViewer services depend on third-party products and services, which may change. This may require TeamViewer to adapt or limit its services accordingly.

2.2. No warranties.
In case of doubt, warranties and representations of properties by TeamViewer shall be interpreted as such only if made in writing (and signed) and identified as "warranty". TeamViewer shall in particular not warrant that the specifications contained in our software, including its modules, meet the Customer's needs, that the software, including its modules, can be operated without interruptions or faults. TeamViews shall furthermore not warrant that it will be possible at all times to successfully perform data backups.

2.3. Provision and activation.
TeamViewer shall provide the software for online retrieval (download) by the Customer.

2.4. Activation.
Following completion of the Order, the Customer in case of fee-based use of TeamViewer shall be provided with a license key, which the Customer shall enter into the software. After entering the license key, the Customer shall have the rights of use and functionalities of the paid-up version pursuant to this Agreement.

3. Rights of use to the Software

3.1. Simple license.
TeamViewer herewith grants the Customer the simple, i.e. non-exclusive, worldwide (pursuant to applicable export control regulations; unless, the Customer in the order process is explicitly granted a right of use restricted to a specific territory), temporary, non-transferable and non-sublicensable right to install, run and use the software on computers to the extent of the scope of use specified in the Order and the present EULA.

3.2. Period of use.
In case of subscription, the rights of use granted under this Agreement shall be limited to the term of the Agreement (see clause 11).

3.3 Scope of use.
The scope of the granted rights and the permitted scope of use (e.g. number of end points and storage capacity) shall follow from the order and this EULA.

(i) **Scope of private use.** To the extent that the Customer concludes the Agreement for purposes which cannot primarily be attributed to his commercial or self-employed activities ("Consumer"), the Customer shall be granted the right of private use. The Customer shall be entitled to use the software exclusively for his own private use. Use of the software for

the performance of own commercial, professional, or independent activities of the Customer or use for purposes, for which the Customer directly or indirectly receives compensation shall not constitute private use ("Entrepreneur").

(ii) **Scope of commercial use.** If the Customer is an Entrepreneur, he shall be granted the right of commercial use. In such case, the Customer shall be entitled to use the software in the performance of own commercial or self-employed activities of the Customer or of companies affiliated with the Customer pursuant to section 15 et seqq. of the [German] Stock Corporation Law.

(iii) **Scope of use based on service packages.** The Customer may use the software only in accordance with his ordered service packages. "Service packages" shall mean the modules individually assembled by the Customer in accordance with the features specified in the Order (such as end points, storage capacity).

The Order may indicate further restrictions of the permitted scope of use

3.4. Prohibition of excessive use.
Any use of the software in excess of the contractually stipulated scope of use shall be prohibited. The Customer herewith agrees to refrain from any such use. In such case, TeamViewer shall retain the right to prohibit any use of the software. TeamViewer shall in such case notify the Customer in advance by e-mail that the software will be locked.

3.5. Source code.
The granted rights of use shall not comprise any rights to the software's source code.

3.6. Conversions and decompilation.
The rights granted under this Agreement shall not comprise any rights to editing or decompiling the software. The Customer's statutory rights, including without limitation pursuant to section 69e of the [German] Copyright Act (UrhG) shall remain unaffected.

3.7. Markings.
Markings of the software, including without limitation copyright notices, trademarks, serial numbers etc. may not be removed, modified or concealed.

3.8. Transfer to third parties.
The Customer shall not be entitled to transfer or provide the software to third parties in excess of the intended use, in particular not to dispose of or license the software.

3.9. Reservation of rights.
Unless the Customer has been explicitly granted rights of use to the software, any and all rights to the software shall remain with TeamViewer.

3.10. Program locks.
TeamViewer shall have the right, but not the duty to technically configure the software and the server services in such a way that it is impossible to exceed the permitted scope of use.

4. Server services and other services by TeamViewer

4.1 Server services.
To establish encrypted telecommunications connections between different users of the software, the software first has to communicate with TeamViewer servers (so-called "handshake"). In addition, the transmission of data in the context of using the software may require that encrypted data packages are forwarded by TeamViewer servers (so-called "routing").

(i) **Subject matter.** TeamViewer is willing to provide the Customer with the relevant server services. In so doing it is not possible to rule out that the server services might be interrupted due to technical difficulties. The Internet connection between the Customer and the data center and the relevant required hardware and software (e.g. PC, operating system) shall not constitute part of TeamViewer's services. The resulting costs shall be borne by the Customer.

(ii) **Term.** In case of subscriptions, the provision of server services may be limited to the term of the Agreement.

4.2. Installation, setup.
The Customer shall install and configure the software himself. The above services shall not be owed by TeamViewer.

4.3. Support.
TeamViewer shall owe support only to the extent that this has been explicitly stipulated. Any additional provided support may be modified or terminated by TeamViewer at any time. The Customer's statutory warranty claims shall remain unaffected. If compensation has been stipulated for support services, such compensation shall not relate to satisfaction of the Customer's statutory warranty claims.

4.4. Documentation.
TeamViewer shall provide a user manual in pdf in German and in English, which may be retrieved online. Additional languages may be offered by TeamViewer on a voluntary basis, but shall not be contractually owed. The documentation may be retrieved under https://www.itbrain.com/support/documents/. As has been stipulated by the Parties, all rights, claims, and benefits under such documentation shall remain with TeamViewer, as well as the rights to all copies, modifications and derived versions thereof, including without limitation to patent rights, copyrights, business secrets, trademark rights and any other intellectual property rights.

4.5. Minor updates.
TeamViewer may at its own discretion provide free minor software updates for download. Minor updates shall be identified by TeamViewer by changing the digit after the main version number (e.g. version XX.1, XX.2). Minor updates may comprise bug fixes as well as smaller functional improvements (e.g. program execution speed optimizations). There shall be no duty to provide minor updates. The Customer's warranty claims shall remain unaffected. The Customer shall be required at his own expense to input the respective current software update of the main version used by him. The rights of use according to the software as such shall apply accordingly to minor updates (clause 3).

4.6. Programming interfaces.
At the discretion of TeamViewer, the software or server services may provide programming interfaces or other software interfaces ("API"), which applications of third parties or of the Customer ("Third-Party Software") may use to communicate with the software or with the servers of TeamViewer. TeamViewer may at any time modify or shut down APIs. There shall be no claim to retaining existing APIs. The respective provider shall be responsible for the Third-Party Software. The provisions of this Agreement shall not apply to Third-Party Software.

4.7. Changes to services.
TeamViewer may modify the software as part of updates and server services (including system requirements) for good cause. Such good cause shall include without limitation if the modification is required because of (i) a necessary adjustment to a new legal situation or case law, (ii) changed technical framework conditions (new encryption standards) or (iii) safeguarding of the system security.

5. Customer's duties and obligations

5.1 Lawful use.
The Customer shall use the software and the server services only within the context of the provisions of this Agreement and pursuant to applicable statutory provisions and shall not infringe any third-party rights when using the above. When using the above, he shall in particular comply with the data protection and export control regulations.

5.2. Export control.
The Customer undertakes not to use the software in any country and not to ship, transfer or export it to any country or person, if this is in breach of EU or US export regulations or if it is in any form prohibited under common EU foreign and security policy or under the U.S. Export Control Act. By using the software, the Customer confirms that he does not stay or reside in any such country and that he is not under the control of any such country. The Customer shall insofar assume full responsibility for using the software.

5.3. System requirements.
The requirements of the Customer's software and hardware are set forth in the user manuals and in the performance specification (see clause 2.1). Before using the software, the Customer shall familiarize himself with the system requirements and shall use the software in line with them.

6. Confidentiality and data protection

6.1 Confidentiality.
The products offered for purchase comprise essential components (e.g. algorithms and logic), which constitute both confidential information and business secrets. Any disclosure of such information and business secrets by the Customer is therefore prohibited. They are furthermore protected in particular by U.S., EU and international patent and copyright laws.

6.2. Data protection.
TeamViewer strictly complies with the applicable data protection laws. TeamViewer shall collect, process, and use Customer data for execution and implementation of the contractual relationship with the Customer, including without limitation for the successful establishment of Internet-based connections. Customer data shall not be disclosed to third-party advertisers without prior approval. Non-personal or anonymous data may be collected automatically in order to improve functionality and handling of the products. The Customer acknowledges and agrees that the collected non-personal or anonymous data may be transmitted for processing to any branches, subsidiaries or affiliates worldwide. For a detailed description regarding collection, processing, and use of personal data by TeamViewer refer to the Privacy Statement under https://www.itbrain.com/privacy/.

7. Limitation of liability

7.1 Exclusion in specific cases.
TeamViewer shall be liable for damages within the scope of statutory provisions to the extent that such damage

(i) was caused with intention or gross negligence on the part of TeamViewer or

(ii) with slight negligence on the part of TeamViewer and is due to any material breach of duty, jeopardizing realization of the purpose of this Agreement, or due to the breach of obligations, which must be satisfied to allow for the due performance of this Agreement, and where the Customer may rely on their compliance (cardinal duties), or

(iii) which are due to injury to life, limb, or health of any person, assumption of an explicit warranty, malicious concealment of a defect or any provision of the [German] Product Liability Act.

Subject to this clause, TeamViewer shall be liable for restoring data, for data losses and for the corruption of data only if the Customer has regularly created backup copies and has ensured that it is possible to reconstruct the data from such backup copies with reasonable effort. In such case, the liability of TeamViewer shall be limited to the typical foreseeable damage. Any further liability for data losses shall be excluded. Subject to this clause, TeamViewer shall furthermore not be liable for any damage incurred by the Customer or a third party because the software and its modules do not recognize all malware or third-party programs or fails to notify the Customer. TeamViewer shall not be liable for events of force majeure, which make it considerably more difficult to perform its contractual performance or which temporarily impede the due performance of the Agreement or make it impossible. Force majeure shall include any circumstances unrelated to the intention and influence of the contracting parties, such as acts of God, government actions, blockades, war and other military conflicts, mobilization, civil commotion, terrorist attacks, strikes, lockouts, and other labor conflicts, confiscation, embargoes or other facts, which are unforeseeable, serious and due to no fault on the part of the contracting parties, and which occur after conclusion of this Agreement. Moreover, any liability on the part of TeamViewer shall be excluded regardless of the legal grounds

7.2. Limitation of the amount.
In case of clause 7.1 sentence 1 (ii) (slightly negligent infringement of cardinal duties), TeamViewer shall only have a limited liability for the typically foreseeable damage under an Agreement of this type.

7.3. Limitation.
Unless a short term has been stipulated and subject to clause 7.1 sentence 1 (i), (ii) and (iii), the client's claims for damages shall lapse after one year. The term shall commence at the end of the year in which the claim has arisen and the client has become aware of the circumstances giving rise to the claim and of the person who is the debtor or could have become aware in the absence of gross negligence.

7.4. Employees and agents of TeamViewer.
The limitations of liability in clause 7.1 through 7.3 shall also apply in case of claims against employees and agents of TeamViewer.

8. General provisions.

8.1. Amendments to the general terms and conditions.
TeamViewer shall in principle be entitled to amend these EULA at any time. TeamViewer shall notify the Customer about the planned change and the contents of the new EULA no later than six weeks before the effective date. Such amendment shall be deemed approved, unless the Customer objects vis-à-vis TeamViewer within 15 days from receipt of such information. TeamViewer shall notify the Customer in the amendment notice about such effect of his silence. If the Customer objects to the amendment, the Agreement shall continue on the existing conditions.

8.2. Communication by e-mail.
Unless stipulated otherwise in this Agreement, any and all notifications and statements in connection with this Agreement may also be made by e-mail. To this end, TeamViewer may use the e-mail address provided by the Customer upon registration or in the TeamViewer account. The Customer shall retrieve them regularly and to the extent necessary, shall provide the respective current e-mail address. TeamViewer contact data are available under https://www.itbrain.com/support/contacts/.

8.3. Applicable law.
The present Agreement as well as any disputes related to it shall be exclusively governed by German law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The choice of law shall not apply if and to the extent that it would have the effect that customers, which conclude the agreement for purposes, which cannot largely be attributed to either their commercial or self-employed activities ("Consumer") are deprived of the protection afforded them by the provisions, which must not be deviated from under the law, which would be applicable in the absence of a choice of law in accordance with Art. 6 para. 1 of ROME I.

8.4. Venue.
If the Customer is a merchant, a legal entity under public law or a special fund under public law, exclusive venue shall be the seat of TeamViewer. In such case, TeamViewer shall remain entitled to take legal action at the Customer's seat.

8.5. Severability.
If individual provisions of this Agreement are or become unenforceable, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced with what the Parties would have stipulated in good faith according to the originally intended purposes from an economic perspective. The same shall apply in case of any gaps.

8.6. Exclusive application.
This EULA shall apply exclusively. Any conflicting or deviating general terms and conditions of the Customer or of third parties shall not be recognized by TeamViewer and shall have no legal effect, unless TeamViewer explicitly agrees to them in advance in writing. In the event that this EULA is translated in any other language, the English version shall prevail.

9. User free, price changes, and default in payment in case of subscription.

9.1. User fee.
For the rights of use to the software and the provisions of the server services during the term of the Agreement, the Customer shall owe TeamViewer the recurring user fee set forth in the Order, unless the Order specifies use free of charge.

9.2. Due date.
Unless specified otherwise in the Order, the user fee shall be due and payable monthly in advance.

9.3. Changes to the scope of use.
The ordered scope of use or the service package may be expanded at any time; reductions of the service package or of the scope of use shall be possible only with effect from the end of the initial or a renewal term (see clause 11.1). If the ordered scope of use is expanded within the initial or a renewal term, additional fees shall be charged on a prorated basis. The prices pursuant to the respective applicable TeamViewer price list shall apply to the additional scope of use.

9.4. Invoicing.
Unless specified otherwise in the Order, TeamViewer shall charge the user fee upon commencement of the Agreement and thereafter upon commencement of each renewal period. Invoices shall be issued (i) online by e-mail to the e-mail address provided by the Customer or (ii) - if created - by uploading it to the Customer's TeamViewer account and corresponding e-mail notification of the Customer. The Customer shall be entitled to have the invoice sent by post only if the Customer requests the invoice from TeamViewer and pays the respective remuneration pursuant to the current TeamViewer price list.

9.5. Payment types.
Invoice amounts may be paid by credit card. Additional payment types (e.g. SEPA direct debit or check) shall follow from the information provided during the order process. If the Customer chooses PayPal direct debit as payment method, if provided, the Customer

may cancel such direct debit through his PayPal profile. Such cancellation must be made no later than one day prior to the next debit date.

9.6. Prices, fees, and taxes.
The Customer shall be required to pay any prices and fees specified in the Order to TeamViewer pursuant to the stipulated payment terms. Prices shall in principle not include any sales, excise, value added or any other tax (including applicable withholding tax); the Customer shall be responsible for paying tax. Bank and credit card charges shall be borne by the Customer. All prices and fees shall be payable within 14 days from the invoice date in the currency specified in the Order. If the Customer is a Consumer, the stated prices shall include value-added tax.

9.7. Price changes.
TeamViewer shall be entitled to increase the user fee in a reasonable manner with effect from the end of an initial term or a renewal term. TeamViewer shall announce the increase in advance with a notice period at least equal to that required for convenience termination by TeamViewer. The Customer may object to the increase; in such case, the Agreement shall terminate upon the increase taking effect. If the Customer does not object, this shall be considered approval of the increase. TeamViewer shall notify the Customer in the announcement about such effect of his silence.

9.8 Default in payment.
The occurrence of default in payment and default interest shall be governed by statutory provisions, including without limitation sections 286 and 288 BGB.

(i) **Dunning fee.** In case of a second reminder, TeamViewer shall be entitled to charge a reasonable dunning fee.

(ii) **Locking in case of default in payment.** If the Customer is in default in payment of the user fee, TeamViewer shall be entitled to temporarily suspend server services ("Locking"). However, TeamViewer shall threaten any Locking reasonably in advance, e.g. by e-mail or notice in the software. There shall be no Locking or it shall be lifted once the Customer has made full payment. While locked, various modules cannot be utilized in accordance with the service package. During Locking, the Customer shall remain obligated to pay the user fee.

(iii) **Termination in case of default in payment.** TeamViewer shall be entitled to extraordinary termination of the Agreement if the Customer (i) fails to pay the user fee on two consecutive payment dates or is in default with payment of a significant portion of the user fee or (ii) is in default with payment of the user fee in an amount equivalent to the user fee for two months for a period covering more than two payment dates.

10. Warranty for defects.

10.1. Freedom from defects and condition.
TeamViewer shall provide the software free from any defects in quality or title and throughout the term of the Agreement shall maintain it in a condition suitable for contractual use.

10.2. Maintenance obligation.
The obligation to maintain the software shall not comprise adapting the software to new operating systems or operating system versions, adapting to the range of functions of competing products, or establishing compatibility with new data formats or maintaining the compatibility of ITbrain with a full version of TeamViewer, which TeamViewer no longer supports.

10.3. Defect removal.
The Customer shall preferentially report defects of the software or of the server services through the webshop provided by TeamViewer under https://www.itbrain.com/support/contacts/ and to the extent possible and reasonable, shall explain the particular circumstances under which the fault occurred (e.g. screenshots, log data). TeamViewer shall remove defects within a reasonable period of time. TeamViewer may remove defects in the form of updates and patches if the contractual range of functions is maintained and if the transfer does not result in significant disadvantages. The Customer shall bear the costs of installation. TeamViewer shall furthermore be entitled to temporarily instruct the Customer about options to bypass a defect and to remove the defect subsequently by adapting the software or server services if this can reasonably be expected from the Customer.

10.4. Termination.
Termination by the Customer pursuant to section 543 para. 2 sentence 1 no. 1 BGB because of the failure to provide contractual use shall be permitted only if TeamViewer has been given adequate opportunities to remove the defect and if this has failed.

10.5. Initial impossibility.
Strict liability for initial defects pursuant to section 536a para. 1, 1st alt. 1 BGB shall be excluded. Fault-based liability shall remain unaffected.

10.6. Limitation.
If the Customer is an Entrepreneur, warranty claims shall lapse after twelve months. This shall not apply in case of warranty claims subject to mandatory statutory liability on the part of TeamViewer (e.g. in case of malice, cf. clause 7.1 sentence 2).

10.7. Statutory provisions.
Moreover, subject to clause 7, the statutory provisions regarding warranty for defects shall apply.

11. Term and termination.

11.1. Term and convenience termination.
Unless specified otherwise in the Order, the following shall apply if the software is provided against consideration: If the Agreement has a term of twelve (12) months ("Initial Term"), the Agreement shall commence upon conclusion (cf. clause 1.3) and subsequently shall be renewed automatically for a further twelve (12) months at a time ("Renewal Term"), unless the Agreement is terminated by either party with 30 days' notice ("Notice Period") effective from the end of the Initial or a Renewal Term. If the Agreement has a term of one (1) month ("Initial Term"), the Agreement shall commence upon conclusion (cf. clause 1.3) and subsequently shall be renewed automatically for a further month at a time ("Renewal Term"), unless the Agreement is terminated by either party with 14 days' notice ("Notice Period") effective from the end of the Initial or a Renewal Term.

11.2. Extraordinary termination.
The right to terminate for good cause shall remain unaffected. The termination right of TeamViewer in case of default in payment shall be subject to clause 9.8.(iii).

11.3. Termination notice.
Termination may be made in writing (signed letter, fax) or in text form (e.g. e-mail). The Customer may address his notice to TeamViewer GmbH, Jahnstrasse 30, 73037 Goeppingen, Germany, or to sales@teamviewer.com to terminate the Agreement. TeamViewer may also terminate an Agreement by way of a corresponding notice in the software.

11.4. Consequences of termination.
Upon expiry of the term of the Agreement, the Customer shall refrain from any further use of the software. Following termination of the Agreement, the Customer shall no longer be able to access the data stored by him in the software, and in the ITbrain account or the TeamViewer Management Console. The above shall apply in particular to data stored by the Customer in the ITbrain Backup module. The Customer shall be responsible for exporting the data prior to the end of the term of the Agreement using the software's functions and to store them for further use. TeamViewer shall not be required to surrender the data in any other way. Upon termination of the Agreement, TeamViewer shall delete the Customer data unless TeamViewer is required by law to retain them. If the deletion of personal data provided by the Customer upon formation of the Agreement or in the context of performance of the Agreement is possible only with unreasonable effort, TeamViewer shall be entitled to lock such data.

B.

1. Contents and formation of the Agreement

1.1. Parties and subject matter.
The provisions of the present End User License Agreement (EULA) shall regulate the legal relationship between TeamViewer GmbH, Jahnstr. 30, 73037 Goeppingen / Germany ("TeamViewer") and its customers ("Customer") in respect of the provision of a standard software and the rendering of associated services. According to the product description, the software provided by TeamViewer allows for the remote maintenance of computers and for holding online meetings and shall be installed on the Customer's computers ("Software"). In addition, TeamViewer provides servers for establishing encrypted connections (handshake) and for the transmission of data packages (routing) in connection with the use of the software ("Server Services"). The use of ITbrain requires in any event a free full version of TeamViewer. However, ITbrain is neither part of the TeamViewer license, nor is the corresponding TeamViewer license part of the ITbrain license or of its modules. If the Customer wishes to use ITbrain, a paid-up ITbrain license as well as a full version of TeamViewer are required. Customers of ITbrain may use the free version of the TeamViewer license for the purpose of using ITbrain. In so doing, the Customer must accept the EULA of the full version of

TeamViewer. The use of ITbrain and of its modules therefore shall require acceptance of the provisions of this EULA as well as the EULA of the full version of TeamViewer. This EULA shall furthermore apply accordingly to associated software, which may be used via the browser, to apps for mobile terminals (e.g. iOS, Android) ("Apps") as well as to the features and functions comprised in the Software. The same shall apply to support services, which to a varying extent, depending on the stipulated service contents, may also become the subject matter of the Agreement. In detail, the following modules are available:

(i) **ITbrain Monitoring & Asset Management** (cf. https://www.itbrain.com/services/assetmanagement/)

(ii) **ITbrain Anti Malware** (cf. https://www.itbrain.com/services/anti-malware/)

(iii) **ITbrain Backup** (cf. https://www.itbrain.com/services/backup/)

1.2. Formation and contents of the Agreement.
A contract for valuable consideration pursuant to the present EULA shall be formed if (i) the Customer goes through the web-based order process on the ITbrain website ((www.itbrain.com)), ultimately clicking the "confirm purchase" or "pay now" button or if (ii) the Customer and TeamViewer sign a written order form, (iii) the Customer orders by phone and receives an order confirmation by e-mail. Details about the Agreement (e.g. selected software, range of functions, term) shall follow from the options selected by the Customer and the information by TeamViewer during the order process or on the order form or in the order confirmation e-mail (hereinafter together **"Order"**, these EULA and the Order hereinafter together **"Agreement"**).

1.3. No deviating regulations.
The application of provisions different from or in excess to these EULA shall be excluded. This shall apply in particular to the Customer's general terms and conditions, even if TeamViewer accepts an Order from the Customer, in which the Customer refers to its general terms and conditions and/or if they are attached to a contractual document of the Customer and if TeamViewer does not object.

1.4. Test phase.
If the Order provides for a test phase, the Customer may within seven (7) calendar days from conclusion of the contract terminate or rescind the Agreement without notice with immediate effect. In this case, the Customer shall be refunded any already paid user fee or respectively, the purchase price.

2. Performance specifications and Software activation

2.1. Performance specification.
The Software's functions shall follow from the product description available in the webshop and in particular from the range of functions specified in the Order (**"Performance Specification"**). The contractually stipulated properties of the Software and server services shall be conclusively determined by the Performance Specification, and not by verbal or written statements made by TeamViewer in the lead-up to the conclusion of the Agreement. Individual functionalities of TeamViewer services depend on third-party products and services, which may change. This may require TeamViewer to adapt or limit its services accordingly.

2.2. Provision and activation.
TeamViewer shall provide the Software for online retrieval (download) by the Customer. TeamViewer shall in particular not warrant that the specifications contained in our Software, including its modules, meet the Customer's needs, that the Software, including its modules can be operated without interruptions or faults. TeamViewer shall furthermore not warrant that it will be possible at all times to successfully perform data backups.

2.3. Activation.
Following completion of the Order, the Customer in case of fee-based use of TeamViewer shall be provided with a license key, which the Customer shall enter into the Software. After entering the license key, the Customer shall have the rights of use and the functionalities of the paid-up version pursuant to this Agreement.

3. Rights of use to the Software

3.1. Simple license.
TeamViewer herewith grants the Customer the simple, i.e. non-exclusive, worldwide (pursuant to applicable export control regulations; unless, the Customer in the order process is explicitly granted a right of use restricted to a specific territory), temporary, non-transferable and non-sublicensable right to install, run and use the Software on computers to the extent of the scope of use specified in the Order and the present EULA.

3.2. Period of use.
In case of subscription, the rights of use granted under this Agreement shall be limited to the term of the Agreement (see clause 11).

3.3 Scope of use.
The scope of the granted rights and the permitted scope of use (e.g. number of end points and storage capacity) shall follow from the order and this EULA. The Software may be used for either private or commercial purposes. Freemium software may be used for private purposes only.

(i) **Scope of private use.** To the extent that the Customer concludes the Agreement for purposes which cannot primarily be attributed to his commercial or self-employed activities ("Consumer"), the Customer shall be granted the right to use the Software for private purposes; this shall cover only his own use for other than commercial purposes. Any use of the Software for commercial purposes or generally for purposes, where the Customer directly or indirectly receives consideration ("Entrepreneur") shall not be covered by the above.

(ii) **Scope of commercial use** If the Customer is granted the right of commercial use, he shall be entitled to use the software in the performance of own commercial or self-employed activities of the Customer or of companies affiliated with the Customer. In the sense of the above, "Affiliate" shall mean any other persons, who directly or indirectly control the Customer, [or] are controlled by or together with the Customer, including without limitation subsidiaries, parent or associated companies.

The Order may indicate further restrictions of the permitted scope of use

3.4. Prohibition of excessive use.
Any use of the Software in excess of the contractually stipulated scope of use shall be prohibited. The Customer herewith agrees to refrain from any such use. In such case, TeamViewer shall retain the right to prohibit any use of the Software. TeamViewer shall in such case notify the Customer in advance by e-mail that the Software will be locked.

3.5. Source code.
The granted rights of use shall not comprise any rights to the Software's source code.

3.6. Restrictions.
The Customer shall not do or procure any third parties to do any of the following: (i) decompile, reverse engineer, or disassemble in any way source codes or underlying ideas or algorithms in connection with the Software or in any other way try to derive, analyze, or use the above, except and only to the extent that the provisions of the preceding paragraph are explicitly prohibited by law, (ii) except to the extent that this is explicitly stipulated in the present Agreement - cf. 3.1 sentence 2 - provide, lease, let, use for time share or service office purposes, as well as in any other way use or grant the use of the Software for the benefit of third parties, (iii) modify the Software or create derivative forms of the Software or (iv) remove product markings, copyright notices, or any other notices on this or any other Software. The Customer undertakes to treat the Software in confidence, not to disclose or use it, unless this is explicitly permitted in this Agreement. The Customer acknowledges and agrees that there will be no adequate remedies in the event of a breach of this paragraph 3.6 and that any such breach of the above obligations would cause irredeemable damage to TeamViewer, where financial compensation would not constitute adequate indemnification, and that TeamViewer in addition to its other rights and remedies may assert claims to other remedies or interlocutory relief.

3.7. Reservation of rights.
Inter partes, TeamViewer shall retain any and all rights and claims to the Software (and to the Software updates provided by TeamViewer) as well as to any copies, modifications, and derived versions of the Software, including without limitation any and all patent and copyrights, rights to business secrets and trademarks as well as any other protective or intellectual property rights.

3.8. Program locks.
TeamViewer shall have the right, but not the duty to technically configure the Software and the server services in such a way that it is impossible to exceed the permitted scope of use.

4. Server services and other services by TeamViewer

4.1 Server services.
To establish encrypted telecommunications connections between different users of the Software, the Software first has to communicate with TeamViewer servers (so-called

"handshake"). In addition, the transmission of data in the context of a section (e.g. online meeting or remote maintenance) may require that encrypted data packages are forwarded by TeamViewer servers (so-called "routing").

(i) **Subject matter.** TeamViewer is willing to provide the Customer with the relevant server services. In so doing it is not possible to rule out that the server services might be interrupted due to technical difficulties. The Internet connection between the Customer and the data center and the relevant required hardware and software (e.g. PC, operating system) shall not constitute part of TeamViewer's services. The resulting costs shall be borne by the Customer.

(ii) **Term.** In case of subscriptions, the provision of server services may be limited to the term of the Agreement.

4.2. Installation, setup.
The Customer shall install and configure the Software himself. The above services shall not be owed by TeamViewer.

4.3. Support.
TeamViewer shall owe support only to the extent that this has been explicitly stipulated. Any additional provided support may be modified or terminated by TeamViewer at any time. The Customer's statutory warranty claims shall remain unaffected. If compensation has been stipulated for support services, such compensation shall not relate to satisfaction of the Customer's statutory warranty claims.

4.4. Documentation.
TeamViewer shall provide a user manual in pdf in German and in English, which may be retrieved online. Additional languages may be offered by TeamViewer on a voluntary basis, but shall not be contractually owed. The documentation may be retrieved from https://www.itbrain.com/support/documents/. As has been stipulated by the Parties, all rights, claims, and benefits under such documentation shall remain with TeamViewer, as well as the rights to all copies, modifications and derived versions thereof, including without limitation to patent rights, copyrights, business secrets, trademark rights and any other intellectual property rights.

4.5. Minor updates.
TeamViewer may at its own discretion provide free minor Software updates for download. Minor updates shall be identified by TeamViewer by changing the digit after the main version number (e.g. version XX.1, XX.2). Minor updates may comprise bug fixes as well as smaller functional improvements (e.g. program execution speed optimizations). There shall be no duty to provide minor updates. The Customer's warranty claims shall remain unaffected. The Customer shall be required at his own expense to input the respective current Software update of the main version used by him. The rights of use according to the Software as such shall apply accordingly to minor updates (clause 3).

4.6. Programming interfaces.
At the discretion of TeamViewer, the Software or server services may provide programming interfaces or other Software interfaces ("API"), which applications of third parties or of the Customer ("Third-Party Software") may use to communicate with the Software or with the servers of TeamViewer. TeamViewer may at any time modify or shut down APIs. There shall be no claim to retaining existing APIs. The respective provider shall be responsible for the Third-Party Software. The provisions of this Agreement shall not apply to Third-Party Software.

4.7. Changes to services.
TeamViewer may modify the Software as part of updates and server services (including system requirements) for good cause. Such good cause shall include without limitation if the modification is required because of (i) a necessary adjustment to a new legal situation or case law, (ii) changed technical framework conditions (new encryption standards) or (iii) safeguarding of the system security.

5. Customer's duties and obligations

5.1 Lawful use.
The Customer shall use the Software and the server services only within the context of the provisions of this Agreement and pursuant to applicable statutory provisions and shall not infringe any third-party rights when using the above. When using the above, he shall in particular comply with the data protection and export control regulations. If the Customer has booked the ITbrain Backup module and if he is a covered entity, a business associate or a representative of a covered entity or of a business associate (pursuant to the definition of these terms in 45 C.F.R § 160.103), the Customer agrees not to use any component, function, or other facility of ITbrain Backup in order to create, receive, manage, or transmit any "protected health information" of any kind (pursuant to the definition of this term in 45 C.F.R § 160.103) or to use ITbrain Backup in any way resulting in TeamViewer becoming his business associate or a third party's business associate.

5.2. Export control.
The Customer confirms that the Software and the associated technical data and services (overall the "Controlled Technology") are subject to the export and import laws of the United States of America, including without limitation the U.S. Export Administration Regulations (EAR) as well as to the laws of any country into which the Controlled Technology is imported or re-exported. The Customer undertakes to comply with all relevant statutory provisions and shall not export any Controlled Technologies in violation of U.S. law or into a prohibited country or to a prohibited legal entity or individual, where an export license or other governmental permit is required. The Customer furthermore undertakes not to export or dispose of Controlled Technologies for use in connection with chemical, biological, or nuclear weapons, or for use with missiles, drones, or carrier rockets suitable for any such weapons.

5.3. Restricted right of the U.S. Government.
The Software shall be deemed commercial computer software within the meaning of FAR 12.212 and shall be subject to restricted rights within the meaning of FAR Section 52.227-19 "Commercial Computer Licensed Software – Restricted Rights" or respectively, DFARS 227.7202, "Rights in Commercial Computer Licensed Software or Commercial Computer Licensed Software Documentation" as well as successor regulations, if any. Any use, modification, reproduction version, presentation, notification, or disclosure of the Software by the U.S. Government shall be made exclusively pursuant to the provisions of this Agreement.

5.4. System requirements.
The requirements of the Customer's software and hardware are set forth in the user manuals and in the performance specification (see clause 2.1). Before using the Software, the Customer shall familiarize himself with the system requirements and shall use the Software in line with them.

6. Confidentiality and data protection

6.1 Confidentiality.
The products offered for acquisition, including the Software and any and all manuals and documentation provided by TeamViewer comprise essential components (e.g. algorithms and logic), which constitute confidential information and business secrets and which are deemed confidential information of TeamViewer. The Customer shall not disclose any confidential information of TeamViewer to third parties and shall use confidential information of TeamViewer only in accordance with this Agreement.

6.2. Data protection.
TeamViewer strictly complies with applicable data protection laws. TeamViewer shall collect, process, and use Customer data for execution and implementation of the contractual relationship with the Customer, including without limitation for the successful establishment of Internet-based connections. Customer data shall not be disclosed to third-party advertisers without prior approval. Non-personal or anonymous data may be collected automatically in order to improve functionality and handling of the products. The Customer acknowledges and agrees that the collected non-personal or anonymous data may be transmitted for processing to any branches, subsidiaries or affiliates worldwide. For a detailed description regarding collection, processing, and use of personal data by TeamViewer refer to the Privacy Statement under https://www.itbrain.com/privacy/.

7. Limitation of liability

TO THE EXTENT PERMITTED BY LAW, TEAMVIEWER OR ITS LICENSORS, RESELLERS, SUPPLIERS, OR REPRESENTATIVES SHALL UNDER NO CIRCUMSTANCES BE LIABLE VIS-A-VIS THE CUSTOMER FOR (I) THE COSTS OF ACQUIRING REPLACEMENT GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OR LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOST REVENUES, LOST ORDERS, LOST GOODWILL, OR THE FAILURE TO REALIZE EXPECTED SAVINGS OR THE LOSS OF WORKING TIME OF MANAGEMENT OR STAFF, OR (II) SPECIAL, INCIDENTAL, OR INDIRECT DAMAGE OCCURRING DIRECTLY OR INDIRECTLY DUE TO THIS AGREEMENT, EVEN IF TEAMVIEWER OR ITS LICENSORS, RESELLERS, SUPPLIERS, OR REPRESENTATIVES WERE NOTIFIED ABOUT THE POSSIBILITY THAT SUCH DAMAGE MIGHT OCCUR. THE LIABILITY OF TEAMVIEWER SHALL UNDER NO CIRCUMSTANCES EXCEED THE CHARGES, WHICH HAVE IN FACT BEEN PAID BY THE CUSTOMER WITHIN A PERIOD OF SIX (6) MONTHS FOR THE SOFTWARE

OR SERVICE PRIOR TO OCCURRENCE OF THE EVENT GIVING RISE TO THE DAMAGE. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT THE LIABILITY OF TEAMVIEWER VIS-À-VIS THE CUSTOMER FOR CULPABLY CAUSING DEATH OR BODILY INJURY OR ANY OTHER LIABILITY, WHERE EXCLUSION OR LIMITATION IS PROHIBITED BY LAW. THE EXCLUSIONS OR LIMITATIONS OF LIABILITY STIPULATED IN THIS EULA SHALL APPLY REGARDLESS OF WHETHER OR NOT THE CUSTOMER ACCEPTS THE SOFTWARE, SERVICES, OR UPDATES.

8. Indemnification

8.1. Indemnification by the Customer.
The Customer undertakes to indemnify and hold TeamViewer, any affiliates, managing directors, directors, partners, contractors or licensors of TeamViewer harmless for and against any and all direct and indirect damage, costs, and expenses (including any and all attorneys' fees and legal costs) which are incurred by TeamViewer because of complaints, claims, demands, penalty payments, or any other third-party procedures or regulatory charges, conditions, or penalty payments, and which are based on a breach of this EULA by the Customer or on any use of the Software in breach of the law or contrary to any duties.

8.2. Indemnification procedure.
TeamViewer shall notify the Customer in due time in writing about any complaints, demands, penalty payments or other third-party procedures or respectively, about any regulatory charges, conditions, or penalty payments. In such case, TeamViewer may decide at its own discretion if TeamViewer (i) will assume or procure legal representation or respectively, defense and if the Customer will bear the costs, or (ii) if it will assign legal representation or defense to the Customer. If TeamViewer assigns legal representation or respectively, defense to the Customer, the Customer shall at his own expense select an appropriately qualified lawyer and other representatives of his choice for legal representation. In any case, TeamViewer shall retain the right to enter into a settlement with the third party or to arrange for other compensation. The above shall apply even if TeamViewer has assigned legal representation or respectively, defense to the Customer. The Customer shall be obligated to indemnify and hold TeamViewer harmless, irrespective of whether or not TeamViewer has settled with the third party and regardless of the decision made by TeamViewer pursuant to this clause.

9. General provisions.

9.1. Amendments to the general terms and conditions.
TeamViewer shall in principle be entitled to amend these EULA. TeamViewer shall notify the Customer about the planned change and the contents of the new EULA no later than six weeks before the effective date. Such amendment shall be deemed approved, unless the Customer objects vis-à-vis TeamViewer within 15 days from receipt of such information. TeamViewer shall notify the Customer in the amendment notice about such effect of his silence. If the Customer objects to the amendment, the Agreement shall continue on the existing conditions.

9.2. Communication by e-mail.
Unless stipulated otherwise in this Agreement, any and all notifications and statements in connection with this Agreement may also be made by e-mail. To this end, TeamViewer may use the e-mail address provided by the Customer upon registration or in the TeamViewer account. The Customer shall retrieve them regularly and to the extent necessary, shall provide the respective current e-mail address. TeamViewer contact data are available under https://www.itbrain.com/support/contacts/.

9.3. Applicable law, severability, waiver.
The contractual relationship between TeamViewer and the Customer shall be governed by the laws of the State of New York, United States of America. Applicable law shall not include the provisions of the United Nations Convention on Contracts for the International Sale of Goods, including amendments, if any, or conflict of law rules. If a provision of this Agreement is found to be invalid or unenforceable as a whole or in part, the relevant provision shall be enforced to the extent permitted. The remaining provisions of the Agreement shall remain in force and effect. The waiver of asserting a breach of duty, including without limitation in case of default, shall not be deemed a waiver of asserting subsequent breaches of duty, in particular in the event of default.

9.4. Venue.
TeamViewer and the Customer shall unconditionally and irrevocably agree to the exclusive jurisdiction of the federal and state courts in New York County, New York, for any processes, complaints, or litigation resulting from or in connection with this Agreement or the transactions contemplated in it. TeamViewer and the Customer herewith waive any objection to such courts for the purpose of conducting such processes, complaints, or litigation.

9.5. Exclusive application.
This EULA shall apply exclusively. Any conflicting or deviating general terms and conditions of the Customer or of third parties shall not be recognized by TeamViewer and shall have no legal effect, unless TeamViewer explicitly agrees to them in advance in writing. In the event that this EULA is translated in any other language, the English version shall prevail.

10. User free, price changes, and default in payment.

10.1. User fee.
For the rights of use to the Software and the provisions of the server services during the term of the Agreement, the Customer shall owe TeamViewer the recurring user fee set forth in the Order, unless the Order specifies use free of charge.

10.2. Due date.
Unless specified otherwise in the Order, the user fee shall be due and payable monthly in advance.

10.3. Changes to the scope of use.
The ordered scope of use or the service package may be expanded at any time; reductions of the service package or of the scope of use shall be possible only with effect from the end of the initial or a renewal term (see clause 11.1). If the ordered scope of use is expanded within the initial or a renewal term, additional fees shall be charged on a prorated basis. The prices pursuant to the respective applicable TeamViewer price list shall apply to the additional scope of use.

10.4. Invoicing.
Unless specified otherwise in the Order, TeamViewer shall charge the user fee upon commencement of the Agreement and thereafter upon commencement of each renewal period. Invoices shall be issued (i) online by e-mail to the e-mail address provided by the Customer or (ii) - if created - by uploading it to the Customer's TeamViewer account and corresponding e-mail notification of the Customer. The Customer shall be entitled to have the invoice sent by post only if the Customer requests the invoice from TeamViewer and pays the respective remuneration pursuant to the current TeamViewer price list.

10.5. Payment types.
Invoice amounts may be paid by credit card. Additional payment types (e.g. SEPA direct debit or check) shall follow from the Order. If the Customer chooses PayPal direct debit as payment method, if provided, the Customer may cancel such direct debit through his PayPal profile. Such cancellation must be made no later than one day prior to the next debit date.

10.6. Prices, fees, and taxes.
The Customer shall be required to pay any prices and fees specified in the Order to TeamViewer pursuant to the stipulated payment terms. Prices shall in principle not include any sales, excise, value added or any other tax (including applicable withholding tax); you shall be responsible for paying tax. Bank and credit card charges shall be borne by the Customer. All prices and fees shall be payable within 14 days from the invoice date in the currency specified in the Order. If the Customer is a Consumer, the stated prices shall include value-added tax.

10.7. Price changes.
TeamViewer shall be entitled to increase the user fee, i.e. at the end of the initial term (usually 12 months) or at the end of the renewal term. The Customer shall be notified accordingly no later than sixty days prior to the increase of the user fee.

10.8 Default in payment.

(i) **Default interest.** On any undisputed user fee, which has not been paid on time, TeamViewer may charge the Customer default interest in an amount equivalent to the lower of one-and-a-half percent (1.50%) per month or the maximum interest rate permitted by law.

(ii) **Locking in case of default in payment.** If the Customer is in default in payment of the user fee, TeamViewer shall be entitled to temporarily suspend server services ("Locking"). However, TeamViewer shall threaten any Locking reasonably in advance, e.g. by e-mail or notice in the Software. While locked, the services of the various modules cannot be utilized. During Locking, the Customer shall remain obligated to pay the user fee.

(iii) **Termination in case of default in payment.** TeamViewer may terminate the Agreement if the Customer is in default with payment of the user fee and fails to remedy such default

within fifteen (15) days from receipt of a corresponding notification from TeamViewer. The option to terminate shall exist in addition to (and not instead of) any other rights and remedies due to TeamViewer under this Agreement or under law or equity.

11. Warranty for defects.

11.1. Warranty, no guarantee.
TeamViewer undertakes to ensure that during the term of a subscription, the Software as well as the server services shall in every material respect comply with the respective product description. However, TeamViewer shall under no circumstances vouch to be able to remove any reported defects or that use of the Software and the server services will be uninterrupted or without any faults. TeamViewer shall furthermore not represent any properties or third-party services. In the event of a breach of any obligations under sentence 1, TeamViewer shall without additional costs for the Customer perform any subsequent improvements which are necessary for the Software and server services to comply with the assumed obligations. The Customer shall give TeamViewer adequate opportunity to remove any breach of duty and shall provide support for the removal of defects. However, in this regard, the claim to subsequent improvement shall be the Customer's sole claim in the event of a breach of duty on the part of TeamViewer within the meaning of sentence 1. However, if TeamViewer after several attempts is unable to remove the defect of a Software or server service and if it therefore is unable to remove the breach of duty according to sentence 1, the Customer shall only be entitled to terminate the Agreement. In this case, TeamViewer shall compensate the Customer in advance for any amounts paid by the Customer to TeamViewer for the Software and server services for the remaining part of the term of the subscription. Any obligation on the part of TeamViewer about any kind of remedy in the event of defects resulting from accident, abuse, unauthorized repairs, modifications, or expansions or in case of improper use shall be excluded. THE ABOVE SHALL CONSTITUTE THE SOLE AND EXCLUSIVE CLAIM ON THE PART OF THE CUSTOMER IN CASE OF ANY BREACH OF DUTY UNDER THIS PROVISION.

11.2. Maintenance obligation.
The obligation to maintain the Software shall not comprise adapting the Software to new operating systems or operating system versions, adapting to the range of functions of competing products, or establishing compatibility with new data formats or a full version of TeamViewer, which TeamViewer no longer supports.

11.3. DISCLAIMER OF WARRANTY, GUARANTEE, LIABILITY. TO THE EXTENT PERMITTED BY LAW, THE WARRANTY AND LIABILITY CLAIMS SET FORTH IN PARAGRAPH 10 ABOVE SHALL CONSTITUTE THE CUSTOMER'S EXCLUSIVE CLAIMS AND SHALL APPLY INSTEAD OF ANY OTHER EXPLICIT OR IMPLICIT CLAIMS, INCLUDING WITHOUT LIMITATION ANY IMPLIED CLAIMS WITH A VIEW TO MARKETABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. TEAMVIEWER SHALL NOT VOUCH FOR THE SOFTWARE OR THE SERVICES MEETING THE CUSTOMER'S REQUIREMENTS OR THAT OPERATION OR USE OF THE SOFTWARE OR THE SERVICES, INCLUDING THE SERVER SERVICES, WILL BE UNINTERRUPTED OR WITHOUT DEFECTS. THE CUSTOMER MAY HAVE OTHER RIGHTS, WHICH MAY VARY DEPENDING ON THE STATE OR COUNTRY.

12. Term and termination.

12.1. Term and convenience termination.
If the Agreement has a term of twelve (12) months ("Initial Term"), the Agreement shall commence upon conclusion (cf. clause 1.3) and subsequently shall be renewed automatically for a further twelve (12) months at a time ("Renewal Term"), unless the Agreement is terminated by either party with 30 days' notice ("Notice Period") effective from the end of the Initial or a Renewal Term. If the Agreement has a term of one (1) month ("Initial Term"), the Agreement shall commence upon conclusion (cf. clause 1.3) and subsequently shall be renewed automatically for a further month at a time ("Renewal Term"), unless the Agreement is terminated by either party with 14 days' notice ("Notice Period") effective from the end of the Initial or a Renewal Term.

12.2. Extraordinary termination.
Either Party may terminate the Agreement in case of a major breach of a contractual duty by the respective other Party, unless the relevant breach of duty has been remedied within thirty (30) days from written notification (whereby the Customer shall be given only fifteen (15) days to remove any failure / default of payment).

12.3. Termination notice.
Termination may be made in writing (signed letter, fax) or in text form (e.g. e-mail). The Customer may address his notice to TeamViewer GmbH, Jahnstrasse 30, 73037 Goeppingen, Germany, or to sales@teamviewer.com to terminate. TeamViewer may also terminate an Agreement by way of a corresponding notice in the Software.

12.4. Consequences of termination.
Upon expiry of the term of the Agreement, the Customer shall refrain from any further use of the Software. For the termination of the Agreement, the Customer shall no longer be able to access the data stored by him in the Software, and in the ITbrain account or the TeamViewer Management Console. The above shall apply in particular to data stored by the Customer in the ITbrain Backup module. The Customer shall be responsible for exporting the data prior to the end of the term of the Agreement using the Software's functions and to store them for further use. TeamViewer shall not be required to surrender the data in any other way. Upon termination of the Agreement, TeamViewer shall delete the Customer data unless TeamViewer is required by law to retain them. If the deletion of personal data provided by the Customer upon formation of the Agreement or in the context of performance of the Agreement is possible only with unreasonable effort, TeamViewer shall be entitled to lock such data.

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kellerschroeder
TECHNOLOGY | CONSULTANTS | SOLUTIONS

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812-568-7121
http://www.warrickcounty.gov

BY: **Keller Schroeder**
4920 Carriage Drive
Evansville, IN 47715
812-474-6825
http://www.kellerschroeder.com

Proactive Performance Management Agreement

Prepared By: Ty Eblen, Account Development Manager
Corey Ainscough, Director, Network Solutions

Date: January 19, 2017

Project Statement:
Keller Schroeder (KS) proposes to provide Systems Support to the County of Warrick ("Client") to perform the tasks outlined below with respect to systems administration, information systems architecture, and common practice recommendations.

Keller Schroeder Assumptions:

1. Tasks undertaken by KS personnel will be performed at the client's location(s) or at the KS offices as determined appropriate by the engineering resources assigned to the project.
2. KS will provide engineering and technical leadership to accomplish the tasks outlined below.
3. KS will depend on the Client to provide details pertaining to site-specific information needed to perform the identified tasks. This includes, but is not limited to, remote access, addresses of all systems covered by this agreement, operating systems of all systems covered by this agreement, hardware information, physical location, software installed on all systems, and credentials to access information required to perform tasks agreed upon as part of this scope.
4. KS retains the right to integrate different engineers during the timeline of the project as deemed appropriate and necessary to provide the best possible service based on required tasks.
5. This proposal does not include time for any communication to network users. Client assumes all responsibility for adhering to change management practices, communicating downtime requirements, and any internal communications with users of the impacted systems.
6. KS will rely on Client staff to coordinate any communication with Client employees or business partners related to changes associated with this project.
7. KS personnel will be provided necessary security access to all systems and network devices pertinent to performing the tasks outlined within the scope of this document.

8. KS personnel will be provided the necessary safety training and apparel to meet Client standards for the environment in which the engineers will be asked to perform work. The expenses for these items, if any, will be passed through from KS to the Client.

9. Client will be responsible for providing appropriate workspace for KS systems administrator while on-site. This includes network connectivity, internet connectivity, and access to a telephone.

10. This agreement does not include services for routine break/fix support services. It is for the proactive support of the server and workstation infrastructure within the Client environment as defined in the Proactive Performance Management Tasks.

County of Warrick Assumptions:

1. If requirements dictate needs beyond the scope of the outlined KS assumptions, Client will coordinate with the on-site KS engineers and the Account Manager to draft additional Statements of Work for those specific project needs. Upon approval of the additional SOW, KS will deploy additional technical staff specifically for those projects.
2. KS will provide the same engineering staff to the greatest extent possible for the duration of this agreement to maximize the benefits of familiarity with the Client environment.
3. Client will be able to submit, update, and view history for all of the Client's support tickets opened with Keller Schroeder for the duration of this agreement using email or the Keller Schroeder support portal. Access to the support portal will be provided for a list of users provided by the Client.
4. Client reserves the right to cancel this agreement at any time with (30) days' notice to Keller Schroeder of the intent to terminate the agreement.
5. **Keller Schroeder Participates in the E-Verify Program** (I.C. 22-5-1.7): Keller Schroeder provides the Social Security Administration (SSA) and the Department of Homeland Security (DHS) with information from each new employee's Form I-9 to confirm work authorization.

Proactive Performance Management Tasks
These tasks are scheduled in advance according to the frequency proposed in the Summary of Costs

1. Perform log review, capacity planning, and system assessment at the frequency noted in the Summary of Costs description.
2. Provide a summary of systems status, including recommendations for improvements and areas of concern. This will include reviewing backups and overall network health each visit at the frequencies noted in the Summary of Costs description.
3. Once a centralized anti-virus and patching platform is appropriately deployed (outside the scope of this agreement), use that system to verify patches and anti-virus updates are implemented on servers and workstations as approved by Client.
4. Create and maintain documentation of all systems covered by this agreement.
5. Provide technical input on design and architecture decisions being considered by client.

6. Participate in strategic systems and network design sessions to provide input on appropriate technical considerations.
7. Perform one vulnerability scan per quarter for one device and provide summarized findings to Client.
8. Provide routine systems administration and maintenance for all Windows servers within Client environment.
9. Provide a document after each visit confirming the checks that were completed and identifying any issues that were discovered.

Summary of Costs

Provides engineering staff for systems administration activities through the contract period based on the following schedule:
- (1) 2-hour visit every other week
  - Services provided from February 6, 2017 to February 5, 2018

Proactive Performance Management **$570 / mo**

Client will be invoiced monthly for actual hours accrued

This estimate is valid for 30 days.

Authorization:

Keller Schroeder	**County of Warrick**
Name: Ty Eblen	**Name:** Marlin Weisheit
Title: Select Account Manager	**Title:** President, Warrick Co. Commissioners
Signed:	**Signed:**
Date: 12/1/2017	**Date:** January 9, 2017

ACCEPTANCE OF STORAGE GUARDIAN AGREEMENT

The Warrick County Board of Commissioners hereby accepts Storage Guardian, Inc's Proposal and StorGuard Service Level Agreement (collectively referred to herein and attached hereto as the "Agreement"), with the following conditions:

1. The Agreement is effective for one (1) year beginning on January 23, 2017 and ending on January 23, 2018, and can be terminated by either party.

2. E-Verify Program.
   Pursuant to Indiana Code 22-5-1.7-11 (b)(2), Storage Guardian shall provide documentation that it has enrolled and is participating in the E-Verify Program (see Indiana Legal Employment Declaration form). Storage Guardian is required to submit proof from the E-Verify Program that it is currently enrolled in the Program. An example of confirmation is the confirmation e-mail received from E-Verify that Storage Guardian has successfully enrolled in E-Verify.

This Agreement is hereby executed on this the 23rd day of January, 2017.

STORAGE GUARDIAN, INC	WARRICK COUNTY BOARD OF COMMISSIONERS
By:	Marlin Weisheit, President
Its:	Dan Saylor, Vice President
Date:	Bob Johnson, Member

ATTEST:
Deborah K. Stevens, Auditor
Warrick County, Indiana

Storage Guardian

Storage Guardian
Proposal

Warrick County Commissioners

Jason Henning
Storage Guardian Inc.
Sales Manager
Jason@storageguardian.com
Phone: 1-647-428-5827 x5310
Toll Free 1-888-883-2807 x5310

June 30, 2016

Storage Guardian

Management Summary

Storage Guardian Inc. would like to thank Warrick County Commissioners for the opportunity to discuss your needs and submit this overview for Storage Guardian Cloud Backup Services.

Storage Guardian is a reliable, cost-effective alternative to traditional backup methods, with a fully automated, agentless, online solution backing up to Storage Guardian's secure, SSAE Type 1 SOC-2 certified offsite data storage infrastructure. It provides centralized and automated backups of PCs, physical and virtual file and database servers and corresponding immediate online recoveries.

- ***Reduces Risk*** – the vulnerability to your organization caused by incomplete backups is essentially eliminated.
- ***Removes the tedious task of managing the backup and restore process.***
- ***Provides a Disaster Contingency*** – the service has inherent disaster recovery capabilities, thereby allowing your company to continue in spite of unforeseen disasters.
- ***Dramatically Reduces Restore Times*** – for accidentally deleted files, making your employees more productive.
- ***Ease of future planning*** – the Storage Guardian service simply expands as your data volumes increase.
- ***Cost Effective*** – the Storage Guardian service is priced to be competitive with hardware/software offerings trying to address the same issues.
- ***No capital outlay*** – Storage Guardian is charged on a monthly 'utility' basis.
- ***Dramatically Reduces Backup Times*** – through advanced software functionality, reducing the actual amount of data transmitted to Storage Guardian.

This proposal reflects the installation of the agentless DS-Client software on any Windows, Mac and Linux system at Warrick County Commissioners (Windows under VMware or Hyper-V also supported). The DS-Client will connect to the Storage Guardian Data Center via an Internet connection.

A full technical overview of the solution is provided in this document for your review.

 © 2015 Storage Guardian Inc.

Storage Guardian

Storage Guardian Implementation Guide

Stage 1
- Installation of DS-Client Evaluation Client
- Recovery of data backup statistics

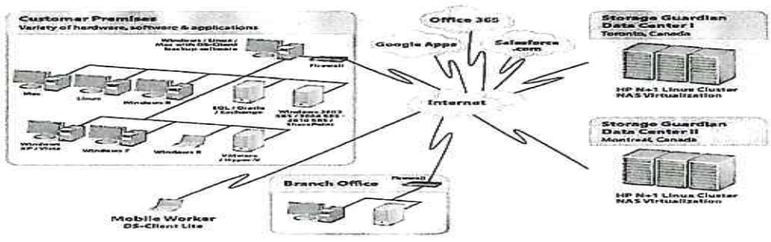
Stage 2
- Testing and sign-off of functional operation as defined in the Service Level Agreement

Stage 3
- Completion of communication between DS-Client and customer's location(s).
- Initial transfer of customer data offsite, testing and sign-off, as defined in the Service Level Agreement.

 © 2015 Storage Guardian Inc.

Storage Guardian

Network Diagram



Storage Guardian

Storage Guardian Service Guide

Storage Guardian is an efficient alternative to traditional backup methods, replacing conventional tape-based systems with a fully automated online solution. It provides centralized and automated backups of PC's, file servers and application/databases servers with secure offsite storage and immediate online restorations.

DS-Client Software
The DS-Client software runs on one server located on the local network. It utilizes standard Microsoft® Windows networking resources to connect to the customer's systems to be backed up and restored. To backup and restore Exchange® and SQL® servers, the DS-Client uses standard Microsoft® applications processing interfaces (APIs) and must be installed on a Windows® system: Windows® 2003/8, Vista, or Windows 7.

Depending on the customer's network configuration, Storage Guardian may require the customer to set up appropriate permissions on any network resource requiring backup and restore capabilities.

The Storage Guardian DS-Client software is completely agentless, making the application easy to deploy and support.

Installation Configuration of the DS-Client
Storage Guardian will arrange an FTP server to perform the installation and configuration of the DS-Client software. This will involve configuration of the client settings, defining network addresses to the DS-System, registering the DS-Client with the DS-System, and entering the customer's specified encryption keys.

Encryption Keys
For the security of customer's backup data, the DS-Client encrypts every file it sends with an encryption key provided by the customer. The files are stored and remain encrypted on the DS-System at all times. The decryption process occurs during the restore operation of the backup data by the Storage Guardian DS-Client. This ensures that all backup data transferred and stored outside the customer location is always encrypted. Storage Guardian uses a 256-bit AES encryption algorithm and can be configured with two encryption keys: Private and Account.

Storage Guardian

Customer Administrator Console
The Customer Administrator Console is the GUI for the DS-Client and is operated by the customer network administrator to define backup sets and schedules, monitor backup sets and schedules, monitor backups, and perform restores.

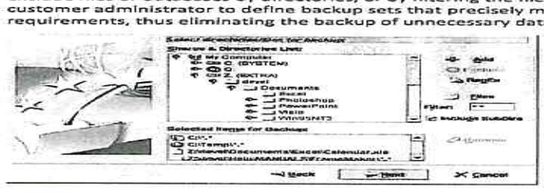
The Customer Administrator Console can be installed on one or more of the customer's Windows 7, Vista, and Windows Server 2003, 2008 and 2012 systems. It will be installed and demonstrated during the initial DS-Client configuration.

Customer Administrator Console access is integrated into Windows network security. Individual user accounts, or groups of users, can be defined and granted authority to perform different levels of the Storage Guardian functions.

Storage Guardian DS-Operator
All Storage Guardian operations are performed using the Customer Administrator Console. Authority to perform operations can be controlled by defining access to authorized users or groups of users, thus preventing backup and restoration of data by unauthorized personnel.

Backups
Storage Guardian solutions are based on backup sets that define the scope of the backup operation to be performed. Backup sets are executed to perform the specific backup operation and can be executed manually or scheduled to run automatically.

Backup Sets
A backup set defines the files or databases that are to be backed up. They can include or exclude files or databases by directories, or by filtering the file type. This allows the customer administrator to define backup sets that precisely meet the customer's requirements, thus eliminating the backup of unnecessary data.



Storage Guardian

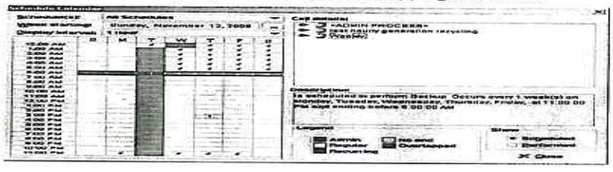
Long-term storage backup is performed by defining and executing additional backup sets for the appropriate customer file or data bases systems. These long-term storage backup sets are typically scheduled to execute on a monthly or quarterly cycle, and complement the regular day-to-day backups.

Backup data generated by these long-term storage sets is stored in a separate disk area on the Storage Guardian System and is copied to lower-cost media after a customer-defined interval.

Backup Schedules
Storage Guardian has an extensive calendar scheduler for automatically executing backup sets. Schedules can be defined to execute backups daily, weekly, monthly, or on a more randomly-defined frequency.

Multiple schedules can be defined, and multiple backup sets can be associated with a schedule. Where multiple backup sets are associated with a schedule, the customer administrator can define the number of concurrent backup sets to be executed and the priority in which they should be executed.

The Customer Administrator Console provides a graphical view of the backup schedules. This allows the customer network administrator to quickly view the status of the backups and identify any conflicting or overlapping schedules.



Monitoring Backups
In addition to the Customer Administrator Console, a web-based interface from the Storage Guardian system presents daily management reports on the status of the Storage Guardian service. This web interface includes a summary of scheduled backups, highlights of any errors that may have occurred, and statistical information detailing the quantity of the backup.

Storage Guardian

Having selected the data to be restored, the Storage Guardian DS-Client delivers the data across the communication network from the Storage Guardian DS-System at the Storage Guardian Data Center. The Storage Guardian DS-Client then delivers the data to the specified system on the customer's network. As a part of the operation, all associated security permissions for the data are also restored.

Portable Storage Guardian DS-System Restores
For larger quantities of data, the customer administrator can invoke the Disaster Recovery Wizard to request that a copy of the backup data be copied to a portable Storage Guardian DS-System.

The Disaster Recovery Wizard provides the same level of restore granularity as the Restore Wizard, but rather than restoring the data across the network, it is copied to a portable Storage Guardian DS-System, which is then transported to the customer site. The customer network administrator can then use the Customer Administrator Console to restore the requested data directly from the Storage Guardian DS-Client to the system being restored.

The only data that can be restored from the portable Storage Guardian DS-System is that which was specified when initially requested. If additional backup data is requested then this can be restored either online or by a new request for a portable Storage Guardian being initiated.

IMPORTANT: The customer's encryption key must be made available for the data to be successfully restored.

Storage Guardian

StorGuard Service Level Agreement

June 30, 2016

Summary of Contents

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Storage Guardian Responsibilities & Obligations ..... Page 2
Customer Responsibilities & Obligations ..... Page 4
Support & Escalation Procedure ..... Page 6
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Introduction
This document details specific responsibilities for Storage Guardian or its Authorized Customer Representation (Storage Guardian, from hereon) Warrick County Commissioners properly commissioned and defines what will happen in the event that a problem occurs. This document also specifically details those circumstances in which the service will be deemed to be in breach of the Service Level Agreement.

Storage Guardian Responsibilities and Obligations

Storage Guardian will provide an automated mechanism whereby the customer will be able to backup data from all designated servers and network-connected desktop computers.

Subject to the conditions outlined in this document, Storage Guardian will undertake that the product and services delivered to customer will function as specified.

Installation and Configuration
Storage Guardian will deliver the specified products and services (DS-Client) to the customer site on a pre-arranged installation date, or dates, to be agreed on signing of the Service Agreement.

- Storage Guardian will supply an FTP server to download the DS-Client to all remote locations.
- All defined products and services will be installed, commissioned and tested to ensure that the service is functionally operational.
- Storage Guardian will test that the service is capable of backing up data from the customer's network.
- Storage Guardian will be responsible for the setup of the DS-Client software.

At this point, Storage Guardian will hand over the StorGuard service agreement to the customer and notify that the service is live and fully commissioned. Storage Guardian will present the customer with this Service Level Agreement and a Service Agreement.[1]

Training
Storage Guardian will provide training for the customer. At a minimum, the customer will be trained to install the DS-Client Software, create a backup set to administer and schedule backups, and to restore data from the DS-System.

The training will take place at a mutually convenient pre-arranged time.

[1] Please see Service Agreement

Technical Support and Problem Escalation
Storage Guardian will provide technical support:
5 days (Mon-Fri), 8 AM - 6 PM (Eastern).

Calls will be handled strictly in accordance with the escalation procedures outlined in the Support and Escalation Procedure section of this document, with priority being given to the most severe cases.

Within the terms of this Service Level Agreement, Storage Guardian **will be responsible for ensuring that the StorGuard service and all associated components will be available to backup customer data that has been defined in all valid backup sets by the customer.**

Storage Guardian will be responsible for ensuring that the StorGuard service and all associated components will be available to restore customer's data that has been previously backed up and stored on the offsite DS-System.

Service Upgrades and Maintenance
Storage Guardian will be responsible for the provision, management and support installation of all products and services released and engineering changes (such as software updates and patches) that it deems necessary to maintain and/or upgrade the product and service.

IMPORTANT: Upon installation, customer will be issued with private encryption keys that protect the data. Storage Guardian will accept no responsibility for secure storage of customer's StorGuard encryption keys. Loss of the keys by the customer will prevent recovery of the StorGuard services and the customer's backup datasets.

Customer's Responsibilities and Obligations

Although StorGuard is delivered as a managed service and Storage Guardian will be responsible for the availability of the service components, the day-to-day operation of the StorGuard service will, in part, depend on certain key processes and related equipment that are wholly under the customer's control. This includes the provisioning of a functional WAN and LAN to avoid network communication problems.

Installation and Configuration

- Customer will be responsible for providing access for a Storage Guardian technician to deliver the product and services onsite, on a pre-arranged installation date.
- Customer will be responsible for providing the necessary power, network connection, and appropriate environment to support the DS-Client software.
- Customer will make available a nominated and appropriated qualified individual to work with the **Storage Guardian**technician during the installation of all the necessary software.
- Customer or its nominated representative will confirm that the functionality of the backup service has been demonstrated to his/her satisfaction.
- Customer or its nominated representative will then accept delivery of the StorGuard Service as a fully commissioned service. The nominated customer representative will sign the Service Agreement and present this to the Storage Guardian technician.

IMPORTANT: Customer is solely responsible for storing the StorGuard encryption keys in a secure location. Loss of the keys by the customer will prevent recovery of the StorGuard service and the customer's backup data.

Training
Customer will be responsible for nominating a representative to undertake the Storage GuardianStorGuard training. This training between will be between the authorized customer representative and the Storage Guardian technician.

At a minimum, customer will ensure that at least one nominated person is capable of creating a backup set and schedule, backing up and restoring data using the DS-Client, and identifying and escalating a problem using the procedures outlitted in the Support and Escalation Procedure section of this document.

Support & Problem Escalation
The customer-nominated representative will be responsible for prompt reporting of any problems directly to the **Storage Guardian** Customer Support Team in accordance with the escalation procedures outlined in the Support and Escalation Procedure section of this document.

Customer Backup and Restore of Data
Customer will be responsible for their network and those systems to be backed up by the StorGuard Service.

Customer will be responsible for defining appropriate backup sets and schedules for those systems to be backup up.

StorGuard cannot guarantee to successfully backup all open files. The open files that fail to backup are reported to customer by the StorGuard service. Customer is responsible for reviewing such occurrences and modifying their backup sets as appropriate.

For confidentiality and security reasons, data transmitted is never opened or read by any of the **Storage Guardian**StorGuard processes. It therefore remains customer's responsibility to ensure that data integrity, including virus checking, is maintained.

Customer will be responsible for performing all data restore operations.

Reports
Storage Guardian DS Client will notify customer via e-mail every business day the status of customer's backup. Customer is responsible for reviewing and acting upon the e-mail notifications that are sent by Storage Guardian, and for reviewing the detailed logs generated by the StorGuard DS-Client service.

Service and Maintenance
Customer will accept installation of all product and service releases and engineering changes deemed necessary by **Storage Guardian** to maintain and/or upgrade the StorGuard service.

5

Support and Escalation Procedure
The following table defines the escalation priorities to be used by customer and Storage Guardian in open calls concerning the StorGuard Services

Priority 3 (Low) **Classification:** General enquiry or problem which has no operational impact on customer's system. Call center open : 8:00 a.m. - 6:00 p.m. ET *Time to Fix:* Before end of next business day or to agreed timeframe.	**Typical Event** Billing or Documentation query Request to move or re-deploy services Report generation issues General advice and guidance Product/service enhancements Logged calls will be typically serviced on a first come, first served basis and resolved within 1 working day.
Priority 2 (Medium) **Classification:** Customer or Storage Guardian has identified a possible error or fault with the installed StorGuard service but has no critical effect on any other part of the services. *Time to Fix:* Before end of next business day or to agreed timeframe.	**Typical Event** Previously installed and working StorGuard DS-Client software now not functioning correctly. Problem backing up single customer's system. If called during business hours (8:00 a.m. - 6:00 p.m. ET Monday through-Friday): an immediate resolution. If called after hours: next business day.
Priority 3 (High) Classification: Customer or Storage Guardian has identified a possible error or fault with the installed StorGuard service that is affecting multiple customer clients or causing severe impact to system operations. *Time to Fix:* 24-hour support from time of call or to agreed timeframe.	**Typical Event** Escalation of Priority 2 Call. Storage Guardian remotely monitors fault on communication line. Customer unable to restore data. Customer experiencing StorGuard related problems backing up from multiple systems. Call referred immediately to Storage Guardian customer service representative, who will become the primary point of contact and coordinate recovery actions. If problem requires onsite technical support this will be scheduled with customer. Every 3 hours, Storage Guardian management will review the situation and the customer service representative will provide a status report to the customer.

Some calls may require further investigation and even internal escalation by our technical specialists. Although we will aim to resolve an open call in the shortest possible timeframe, this may in some cases depend on the availability of diagnostics information

6

from the customer. In this case, **Storage Guardian** will monitor events at every stage throughout the diagnostic process and keep the customer informed of progress.

In many cases **Storage Guardian** operations staff, through their service monitoring systems, will be aware of problems before they are logged by a customer. In these cases the operations staff will call the nominated customer representative to arrange the necessary remedial action.

Any investigative work carried out by **Storage Guardian** personnel on a fault that is found not to be the responsibility of **Storage Guardian** will potentially incur charges, with a minimum billable charge of $500 + GST (Canada). Should travel and accommodations be necessary, this will also be charged at cost to the customer.

7

Disaster Recovery- High Priority

In the event of customer invoking a disaster recovery, or disaster recovery test, the normal StorGuard Service Level Agreement will be suspended for the duration of the disaster recovery. During this time the following disaster recovery Service Level Agreement will be put into effect. The authorized customer representative & customer will call a 24 hr. x 7 x 365 call center phone number: 1-877-314- 6174

Disaster Recovery (High) Classification: Customer invokes an onsite disaster recovery. Called Logged In: 24hr. x 7 x 365 Time to Fix: Problem determination will start immediately and a recovery plan will be proposed to the customer depending on the exact nature, location, and scale of the problem. Problem resolution activity will be maintained on a 24-hour basis until the problem is resolved.	**Typical Event:** Major data loss: Loss of entire customer site or scheduled disaster recovery test. Call referred immediately to Authorized Service Representative who will become the point of contact and coordinate the following action: • Notify all relevant members of the Storage Guardian management team. • Review any previous call history. • Interrogate database and remote diagnostic support systems. • Implement repair/replacement/Crash Response Team procedure. • Arrange for arrival of onsite Storage Guardian technical personnel, if applicable. • Feedback problem status update to customer on a regular basis. • Contact the customer to confirm successful resolution. • If a problem requires an onsite technical visit, this will be scheduled with the customer.

8

Performance Level Agreement

Storage Guardian acknowledges that the consistent availability and performance of the StorGuard service is essential to ensure that customer's data can be effectively backed up, transferred offsite and made available for retrieval upon request.

Subject to the product parameters and the authorized service representative having fulfilled their obligations under the terms of the Service Level Agreement, the following performance level criteria will apply:

The service will be considered to be of an unacceptable performance if:

1) Storage Guardian exceeds the time-to-fix period, for more than a total of 8 hours (excess outage period) in a calendar month for one or more Priority 1 escalation.

In this event, the customer will be credited with the value of $200.00 dollars for each hour of outage time beyond the total of 8 hours excess outage period in any one calendar month.

OR

2) If, in the event that the customer notifies Storage Guardian of a site disaster situation requiring the recovery process to be invoked, and Storage Guardian does not provide the customer with a completely working system and full set of the customer's data onsite within 24 hours.

In this event, customer will be credited with an amount equal to one month's service charge.

9

AGREEMENT TO HOLD WARRICK COUNTY HARMLESS FOR PLACEMENT OF CERTAIN STRUCTURES IN COUNTY RIGHT OF WAY

NEWBURGH DEVELOPMENT GROUP, LLC, (hereafter sometimes referred to as "**Developer**") and HUNTINGTON CREEK HOMEOWNER'S ASSOCIATION, INC., (hereafter sometimes referred to as "**HOA**"), and WARRICK COUNTY, BY AND THROUGH THE BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA (hereinafter sometimes referred to as "**County**"), do hereby enter into this Agreement to hold Warrick County harmless for the placement of certain structures in County right of way:

WHEREAS, Huntington Creek Subdivision Section "A" is a planned residential unit development situated in Warrick County, Indiana, being more particularly identified as final plat certificate number 20004R-010974, as more particularly described on Exhibit "A", attached hereto and incorporated herein as (the "**Development**");

WHEREAS, Developer constructed certain improvements and structures located at the entrance of the Development on Huntington Creek Drive and the intersection of Huntington Creek, Glen Oak Court and Lauren Court, as more particularly described in collective Exhibit "B", attached hereto and incorporated herein as (the "**Structures**");

WHEREAS, HOA is responsible for maintaining said Structures;

WHEREAS, The Structures encroach on the County right of way located at the entrance of the Development on Huntington Creek Drive and the intersection of Huntington Creek Drive, Glen Oak Court and Lauren Court;

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Developer and HOA agree that the Structures are located within and are encroaching on the County's right of way;
2. Developer and HOA agree that they have full responsibility for maintenance, repair and removal of the Structures, and that the County shall have no responsibility for maintenance, repair and removal of the Structures.
3. Developer and HOA agree to waive any claims against County in connection with the placement, construction, maintenance, repair and removal of the Structures.
4. Developer and HOA hereby covenant and agree to hold County, their engineers, public officials, employees, agents, assigns and duly authorized contractors or third parties (hereafter "Indemnified Parties") harmless and to indemnify the Indemnified Parties from any and all claims, liability, damages, demands, causes of action, costs, losses or expenses, including without limitation, all attorney's fees, court costs, indemnity or settlement amounts, and any other damage, cost or expense which may directly or indirectly result from the following:

   a. The construction, installation and placement of the Structures;
   b. The maintenance or lack of maintenance of the Structures; and
   c. The removal of the Structures.

Even if it is determined or alleged that the event giving rise to said claim, liability, demand, cause of action, damages, losses, costs and/or expenses is the result of the sole negligence of County.

5. Developer and HOA agree to bear any costs and to completely remove and demolish the Structures if it is determined by the County that in the reconstruction or widening of Huntington Creek Drive or Glen Oak Court that the Structures must be moved, relocated or removed.

6. Developer and HOA agree to bear any costs and expenses to remove and demolish said Structures if a regulated public utility requests or requires placement of its facilities within the County right of way in the same area that Developer and HOA placed the Structures.

7. Developer and the HOA shall carry public liability insurance in the amounts as follows:

   a. Comprehensive General Liability Insurance, including Contractual Liability Insurance with minimum limits of $1,000,000 for Bodily Injury and $1,000,000 for Property Damage per occurrence. The County shall be endorsed as an additional insured and will include a Severability or Interest clause in favor of the County.

   b. Within two (2) business days of all accidents or occurrences resulting in injury to Developer's and HOA's contractors or third parties, or damage to property of the County or another, Developer and HOA shall furnish the County with a copy of all reports prepared for the submission to Developer's and HOA's insurance company.

   c. Developer and HOA represent (1) that all policies of insurance required hereunder shall by appropriate endorsement, or otherwise, provide for attempted thirty (30) days prior written notice of cancellation or modification to the County, and (2) that the Contractual Liability Insurance shall by appropriate endorsement, or otherwise, specifically insure the terms and provisions as expressed in this Agreement.

Developer and HOA's insurance coverage must have a certificate of authority issued by the Indiana Department of Insurance, and any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligations of the Developer and HOA.

The County will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Developer and HOA in excess of the minimum requirements set forth above. The duty to indemnify the County under this Agreement shall not be limited by the insurance required in this Agreement. Failure to provide insurance as required in this Agreement may be deemed a material breach of contract. Developer and HOA shall furnish certificates of

insurance and all endorsements to the County before the commencement of this Agreement. The County further agrees that the insurance may be carried solely by the HOA and list both the County and Developer as additional insureds.

8. This Agreement shall run with the land and inure to and be binding upon successors in title of the Developer and HOA and may be recorded in the Office of the Recorder of Warrick County Recorder, the cost of which shall be borne by the Developer and HOA.

9. The Developer and HOA shall not assign, transfer, pledge or grant any security interest in, or otherwise dispose of, this Agreement or any interest in this Agreement without first obtaining the written consent of the County. Subject to the foregoing, this Agreement shall inure to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

10. General Provisions.

   A. Entire Agreement. This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the County, Developer and HOA. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Agreement, and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth. The recitals set forth above shall be incorporated herein by reference. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

   B. Waiver of Rights. No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

   C. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Agreement. If any provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.

   D. Amendment. No supplement, modification or amendment of this Agreement will be binding unless in writing and executed by all of the parties that are signatories to the Agreement.

   E. Governing Law and Jurisdiction. This Agreement shall be subject to and interpreted in accordance with the laws of the State of Indiana and suit, if any, shall be brought in the

state court of Warrick County, Indiana or in the United States District Court for the Southern District of Indiana, Evansville, Indiana Division.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed on this 9TH day of JANUARY, 2017.

Aaron Miller, President
"Developer"

Aaron Miller, Director
"HOA"

BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA

By: Marlin Weisheit, President

By: Dan Saylor, Vice President

By: Bob Johnson, Member

Attest:

Deborah K. Stevens, Auditor
Warrick County, Indiana

EXHIBIT "A"

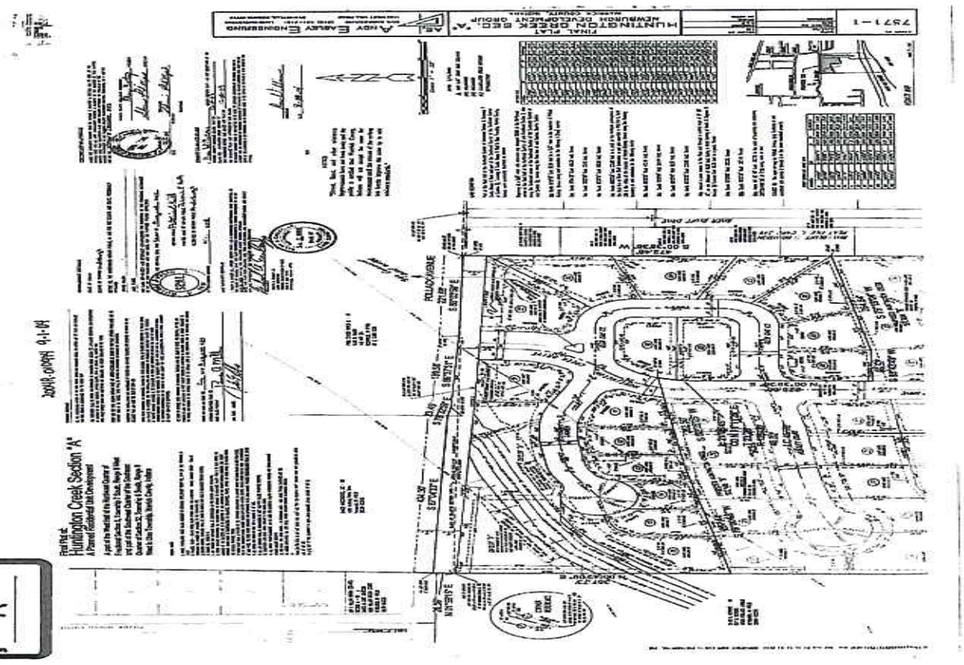
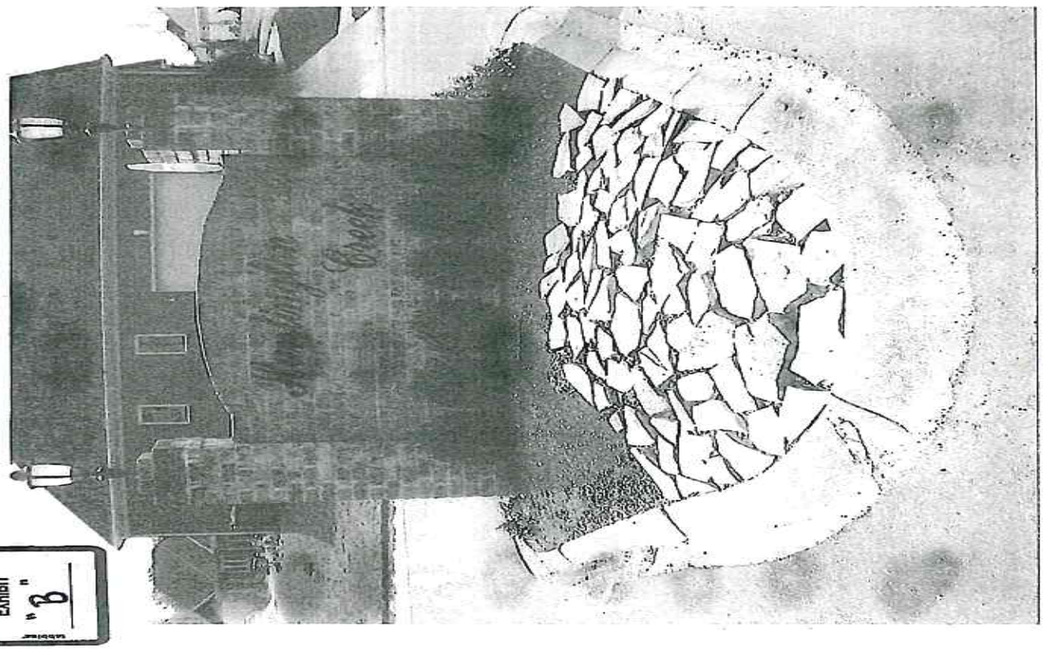
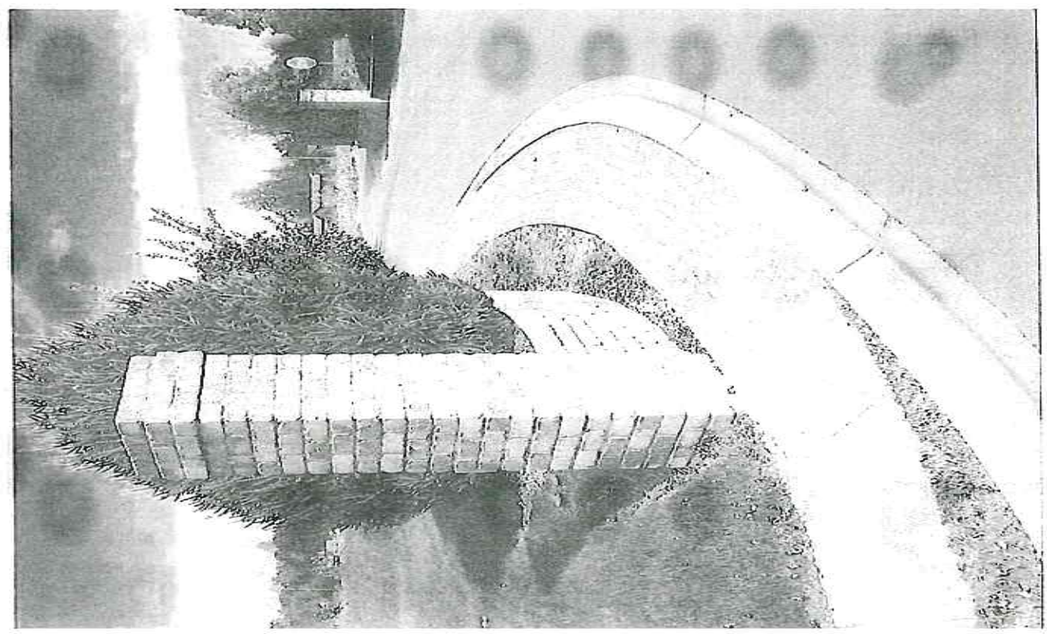
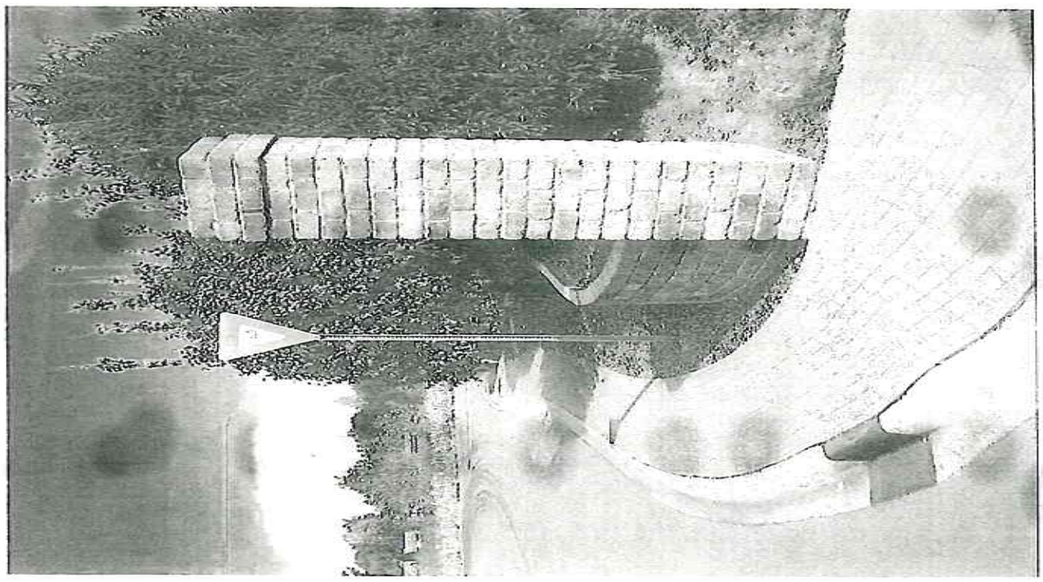
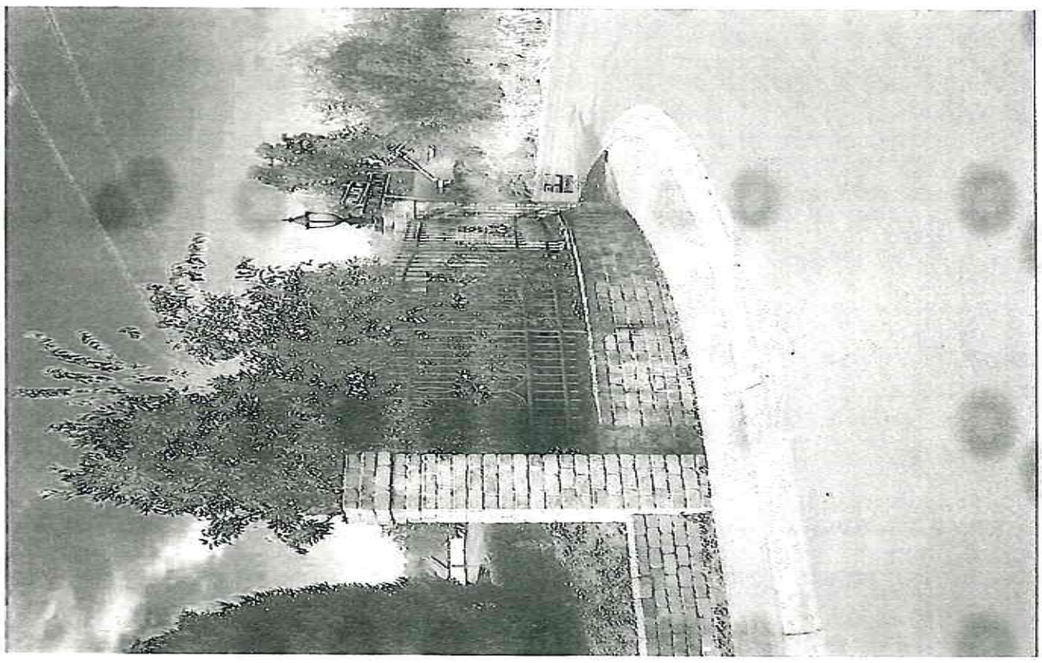


EXHIBIT "B"









ACCOUNTS PAYABLE VOUCHER REGISTER
WARRICK COUNTY INDIANA
Government Unit JANUARY 9TH, 2017

Fund: 1000 GENERAL		
Department: 102 COUNTY AUDITOR		
	ALPHA LASER SERVICES	929.70
	QUILL CORPORATION	98.89
	102 COUNTY AUDITOR Total:	1,028.59
Department: 106 COUNTY SURVEYOR		
	OFFICE DEPOT, INCORPORATED	258.40
	106 COUNTY SURVEYOR Total:	258.40
Department: 112 COURTHOUSE & ANNEX		
	GEM CHEMICAL COMPANY, INC.	141.44
	THE MURPHY ELEVATOR CO INC	234.49
	112 COURTHOUSE & ANNEX Total:	375.93
Department: 113 COUNTY SHERIFF		
	B-HIVE PRINTING	106.25
	HERR'S BODY SHOP	100.00
	SYNENERGY PARTNERS LLC	282.83
	THE LANG COMPANY	115.62
	WABASH VALLEY SERVICE CO	3,253.11
	WARRICK CO JAIL COMMISSARY	1,331.74
	113 COUNTY SHERIFF Total:	5,189.55
Department: 114 JAIL		
	AIGNER HARDWARE	14.99
	BOB BARKER COMPANY INC.	98.77
	BUMPER TO BUMPER / BTB CHANDLER	13.58
	CHIEF SUPPLY CORP	300.59
	CULLIGAN OF EVANSVILLE	438.75
	EMERGENCY PROF OF INDIANA PC	175.26
	EVANSVILLE SURGICAL ASSOCIATES	128.21
	GEM CHEMICAL COMPANY, INC.	310.57
	KENWAY DISTRIBUTORS INC	220.00
	ST. MARY'S WARRICK HOSPITAL	790.32

SUPPLYWORKS	449.70
WARRICK CO JAIL COMMISSARY	175.42
114 JAIL Total:	3,116.16
Department: 115 AREA PLAN COMMISSION	
CDW GOVERNMENT, INC.	356.50
DORIS HORN	50.00
JEFF WILLIS	50.00
JEFFREY L VALIANT	50.00
MIKE MOESNER	50.00
MIKE WINGE	50.00
OFFICE DEPOT, INCORPORATED	182.30
115 AREA PLAN COMMISSION Total:	788.80
Department: 116 COMMISSIONERS	
ALEXANDER NEWBURGH CHAPEL	100.00
ARAMARK	32.32
KOEHLER FUNERAL HOME, INC.	100.00
PIRANHA SHREDDING/RECYCLING INC.	80.00
TELE/DATA COMMUNICATIONS OF IN	32.50
WARRICK PUBLISHING CO	31.63
116 COMMISSIONERS Total:	376.45
Department: 118 EMERGENCY MANAGEMENT AGENCY	
THE LANG COMPANY	72.31
118 EMERGENCY MANAGEMENT AGENCY Total:	72.31
Department: 140 COMPUTER	
CDW GOVERNMENT, INC.	1,282.49
140 COMPUTER Total:	1,282.49
1000 GENERAL Total:	12,488.68
Fund: 1122 COMMUNITY CORRECTIONS	
Department: 000 W.C. COMMUNITY CORRECTIONS	
CORRISOFT, LLC	226.60
SENTINEL OFFENDER SERVICES LLC	362.60
000 W.C. COMMUNITY CORRECTIONS Total:	589.20
1122 COMMUNITY CORRECTIONS Total:	589.20
Fund: 1138 CUMULATIVE CAPITAL DEVELOPMENT	
Department:	
BUMPER TO BUMPER / BTB CHANDLER	12.05
THE MURPHY ELEVATOR CO INC	759.11
1138 CUMULATIVE CAPITAL DEVELOPMENT Total:	771.16
	771.16
Fund: 1149 ECONOMIC DEVELOPMENT FEE	
Department:	
RICOH USA INC	29.89
1149 ECONOMIC DEVELOPMENT FEE Total:	29.89
	29.89
Fund: 1219 PARK & RECREATION	
Department:	
AIGNER HARDWARE	114.19
CARTER LUMBER	634.52
DAN SAYLOR	150.00
DANIEL ROACH	200.00
KEITH A COMBS	150.00
O'REILLY AUTO PARTS	20.44
RITA BRADSHAW	200.00
TYLER NEFF	200.00
UNIFIRST CORPORATION	88.58
WARRICK CO DEPT OF PARKS & REC	322.32
WARRICK COUNTY TREASURER	359.79
WARRICK SOLID WASTE MGT DIST	91.80
1219 PARK & RECREATION Total:	2,531.64
	2,531.64
Fund: 1224 REASSESSMENT	
Department:	
OFFICE DEPOT, INCORPORATED	31.98
1224 REASSESSMENT Total:	31.98
	31.98
Expense Total:	$ 16,442.55
Courts and Manuals:	$ 475,240.96
Grand Total:	$ 491,683.51

I hereby certify that each of the above listed vouchers and the invoices, or the bills attached thereto, a and correct and I have audited same in accordance with IC 5-11-10-1.6, JANUARY 9TH, 2017.

IC 5-11-10-2 permits the governing body to sign the accounts Payable Voucher Register in lieu of sign each claim the governing body is allowing.

We have examined the vouchers listed on the foregoing Accounts Payable Voucher Register, consisti pages, and except for vouchers not allowed as shown on the Register such vouchers are allowed in the total amount of: $ 491,683.51

Dated this 9TH day of JANUARY, 2017

Signatures of Governing Board

Debbie Stevens
Auditor of Warrick County

Contract No:R -36004

Change Order No.: 003
Page: 1

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Contract Information
District:VINCENNES DISTRICT
Contract No.: R -36004
AE:Schum, Curtis
Letting Date:09/02/2015
PE/S:Price, Tyler
Status:Draft

Change Order Information
Date Generated: 12/16/2016
Reason Code: PAYMENT ADJUST, Material Related
Description: Chemical Modification, Soils
Change Order No.: 003
Date Approved: 00/00/0000
EWA: Y or Force Acct: N

Original Contract Amount	$ 3,123,143.57	
Current Change Order Amount	$ 0.00	Percent: 0.000 %
Total Previous Approved Changes	$ 13,634.64	Percent: 0.437 %
Total Change To-Date	$ 13,634.64	Percent: 0.437 %
Modified Contract Amount	$ 3,136,778.21	

Time Extension Information
Date Initiated 00/00/0000
Date Completed 00/00/0000

Original Contract Time
SS Completion Date 00/00/0000 or SS Calendar/Work Days 0
SP Date 00/00/0000 or SP Days
(SS = Standard Specification, SP = Special Provision)

Time Element Description:
Current Time Extension
SS Days 0 SP Days 0 SP Days Value $ 0.00

Previous Time Approved
SS Days by AE:_____ DCE:_____ SCE:_____ DDCM:_____
SS Days_____ SP Days Value $ _____

Revised Contract Time
SS Completion Date 00/00/0000 or SS Calendar/Work Days 0
SS Date 00/00/0000 or SP Days 0

Contract No:R -36004

Change Order No.: 003
Page: 2

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Review and Approval Information

Required Approval Authority
($ per Change Order)
(Days per Contract)
AE:_____ DCE:_____ SCE:_____* DDCM:_____*
(- LE $ 250K-) (- LE $ 750K -) (-- LE $ 2 M --) (-- GT $ 2 M --)
(50 SS days) (100 SS days) (200 SS Days) (GT 200 SS days)

Verbal Approval Required? Y / N If Y, by_____ Date Issued_____

Total Change To-Date>5%? Y / N If Y , Copy to Program Budget Manager_____

Scope/Design Recommendation Required? Y / N If Y, Referred to Project Manager(PM) _____
Date to PM_____ Date Returned_____

Approval Authority Concurs with PM? Y / N If Y, Concurrence by_____ Date_____
If N,Resolution: Approved _____ Disapproved _____
Resolved by_____ Date_____

LPA Signatures Required? Y / N If Y, Date to LPA _____ Date Returned _____

FHWA Signatures Required? Y / N If Y, Date to FHWA_____ Date Returned_____

* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer _____ Date _____

Comments: _____

Contract No:R -36004
Change Order No:003

INDIANA
Department of Transportation

Date:12/16/2016
Page: 3

Contract: R -36004
Project: 0500640 - State:0500640
Change Order Nbr: 003
Change Order Description: Chemical Modification, Soils
Reason Code: PAYMENT ADJUST, Material Related

CLN	PCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0105	0500640	0105	215-08566	DOL	1.000	17678.470	C	Amount:$ 17,678.47

Item Description: CHEMICAL MODIFIER ADJUSTMENT
Supplemental Description1:
Supplemental Description2:

Total Value for Change Order 003 = $ 17,678.47

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.
General or Standard Change Order Explanation

Per INDOT Spec 215.03, Ragle bid Pay Item #0031, Subgrade Treatment, Type IB to use 4.0% of cement. After taking four samples and having a soil analysis completed, all four samples required 5.0% cement. This change order is for a compensation adjustment to go from 4.0% to 5.0% of cement. Using the attached INDOT Excel sheet, during the bid Ragle should have anticipated needing 553.37 tons of cement but with the increase to 5% the actual number of tons of cement needed was 691.71 tons for an increase of 138.34 tons. Ragle has provided delivery tickets for the cement and the average unit price is $127.79/ton for a chemical modification adjustment of $17,678.47.

Change Order Explanation for Specific Line Item

It is the intent of the parties that this change order is full and complete compensation for the work describe above.
Notification and consent to this change order is hereby acknowledged.

Contractor: RAGLE, INC.
Signed By: _____
Date: 12/19/16

NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No:R -36004
Change Order No:003

INDIANA
Department of Transportation

Date:12/16/2016
Page: 4

APPROVED FOR LOCAL PUBLIC AGENCY

(SIGNATURE) (TITLE) President (DATE) 1/9/17

(SIGNATURE) (TITLE) Member (DATE) 1/9/17

(SIGNATURE) (TITLE) Member (DATE) 1/9/17

SUBMITTED FOR CONSIDERATION

PE/S 12/16/16

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORATION

Approval Level	Name of Approver	Date	Status

CHEM. MOD. ADJUSTMENT
215 - 07043, Chemical Modification, Soils

CONTRACT: R-36004
DATE: 12/7/2016

VARIABLE		VALUE	UNIT
TOTAL AMOUNT OF CEMENT USED	--	758.44	tons
AREA OF TREATMENT	--	24945.27	sys
MAX. DRY DENSITY OF SOIL	--	105.6	pcf
DEPTH OF TREATMENT	--	1.167	ft
UNIT PRICE OF CEMENT	--	127.79	$
UNIT PRICE OF LIME	--	88	$
CEMENT APPLICATION RATE	--	5	%
LIME APPLICATION RATE	--	4	%

RESULTS

VOLUME = AREA(sys) x 9 (ft^2/sys) x DEPTH(ft)
VOLUME = 262010.67 cft

MASS = [VOL (cft) x DEN (pcf)] / 2000 (lbs/ton)
MASS = 13834.16 tons

MASS CEMENT = APPLICATION RATE (%) X MASS (tons) - Actual Based On Soil Analysis
MASS CEMENT = 691.71 tons

MASS LIME = APPLICATION RATE (%) X MASS (tons) - Bid Per INDOT Spec 215.03
MASS LIME = 553.37 tons

ADJUSTMENT

LIME DUST PER TON = $88.00
CEMENT PER TON = $127.79

~~CHEMICAL MODIFIER ADJUSTMENT~~
~~[(CEMENT (%) X MASS CEMENT) - (LIME (%) X MASS LIME)]~~
~~$39,697.48~~

~~ADDITIONAL CHEMICAL MODIFIER ADJUSTMENT~~
~~[(CEMENT USED (tons) - MASS CEMENT) * CEMENT PRICE ($)]~~
~~$8,287.66~~

~~TOTAL CHEMICAL MODIFIER ADJUSTMENT~~
~~$48,024.70~~

Cost Increase: 691.71 TONS
- 553.37 TONS
138.34 TONS
x $127.79/TON
= $17,678.47

Cement Stabilization Quantity = 24,776.56 SYD

Unit Price = $17,678.47 / 24,776.56 SYD
= $0.71 / SYD

Mounts Electric Inc.
P.O. Box 3273 • Evansville, IN 47731
515 Northwest Second • Evansville, IN 47708
(812) 422-5358 • FAX (812) 422-5851
COMMERCIAL—INDUSTRIAL WIRING

January 19, 2017

Warrick County Commissioners
ATTN: Roger Emmons
107 W. Locust Street, Suite 301
Boonville, IN 47601

RE: Traffic Signal Maintenance Agreement – Contract Amendment

We hereby agree to add two Traffic locations to the current Traffic Signal Maintenance Agreement, under the same general conditions as the current contract, which began 5-1-16 and will expire on 4-30-18. The following locations shall be added as of respective dates listed:

Libbert Road and Wellness Trail – Add 1-1-17

Bell Road and Oak Grove Roads – Add 5-1-17

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

Contractor:
MOUNTS ELECTRIC, INC.
David G. Mounts, President

Attest:
Mary Rellekes
Date: 1-19-17

County:
Marlin Weisheit
President, Warrick County Commissioners

Attest:
Deborah K. Stevens, Auditor
Date: 1/23/17

All American Locksmith & Alarm
Lee Hayden
3322 Montgomery Lane
Newburgh Indiana 47630
(812)853-9688

INVOICE

Number: 1111
Date: 12/20/2016

Bill To :
Joe Grassman
Warrick county purchasing manager

Ship To

Description	Amount
KT-MOD-INP16 K1400 expansion module 16-zone input with SPI cable	$725.00
RB30 Relay Module Input Voltage 12vdc or 24vdc Current draw: 95mA Contact Rating: 30A/28vdc, 120vac or 277Vac SPDT contacts Electical: Operating temperature: -25 c to 55 c ambient System AC input VA requirement: -12vdc: 11.4va -24vdc: 22.8va	$48.00
HP Pavilion Desktop 210-a010 AMD Quad-Core A8-7410 Processor 8 GB DDR3L-1600 SDRAM memory 1 TB hard drive Wireless lan 802.11a/b/g/n/ac and Bluetooth 4.0 M.2 Combo HP finish in twinkle black Ultra Slim iTray SuperMulti DVD Burner HP 3-in-1 Media Card Reader AMD Radeon R5 Graphics HP USB Wired Wired keyboard with volume control and wired optical mouse DTS Studio Sound: Enjoy dynamic audio nuances and rich sounds with DTS Studio Sound 1 Year limited hardware warranty and 90 Days limited Technical support for Software and Initial Setup (from date of purchase) Windows 10 Home McAfee antivirus	$752.00

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All American Locksmith & Alarm
Lee Hayden
3322 Montgomery Lane
Newburgh Indiana 47630
(812)853-9688

INVOICE

Number: 1111
Date: 12/20/2016

Bill To
Joe Grassman
Warrick county purchasing manager

Ship To

Description	Amount
Vizio D24-D1 24" 1080p 60 Hz LED Smart HDTV 1 HDMI Input 1 USB Input 1 VGA Input Advanced virtual surround sound audio from VIZIO's two built-in speakers	$480.00
NX8E 8 Hardwire zone inputs. Exapndable to 192 Fully programmable Hardwire and/or wireless zones	$825.00
NX-148E NetworX LCD Keypad, 192-zones, 6.2" W x 5.3" H x 1.3" D, Swingdown removable door conceals controls, White	$375.00
Transformer 600-1023 16.5VAC, 40VA	$45.00
Nx-216e Zone Expander Adds on top of nx8e to give the nx8e additional 16 zones	$280.00
Battery SEC1055 12v 5AH Sealed Maintenance-Free Rechargeable Battery Nonspillable-AGM	$65.00
Networx Housing Can NX-H 12" H x 12" W x 3" D	$60.00
11 License EVIP-01 to initiate cameras to nvr recorder	$1,980.00
Hikvision 8 Channel Encoders (to go from analog to ip) Recorder only accepts ip	$3,280.00
Labor	$3,600.00

SubTotal	$12,015.00
0.00% on $0.00	$0.00
0.00% on $0.00	$0.00
Total	

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