

**TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA
MEMORANDA & MINUTES OF THE CEDAR LAKE TOWN COUNCIL**

**January 4, 2011
Public Meeting 7:00 PM at the Cedar Lake Town Hall
Pledge of Allegiance & Moment of Silence**

Clerk Treasurer Amy Sund called the meeting to order.

Roll Call:

Present	Robert Carnahan Council Member	Ward 1	Present	William Landske Council Member	Ward 6
Present	John Foreman Council Member	Ward 2	Present	Greg Parker President	Ward 7
Present	Dale Poston Council Member	Ward 3	Present	Amy J. Sund Clerk-Treasurer	
Present	Jerry Smith Council Member	Ward 4	Present	Ian Nicolini Town Administrator	
Present	Randell Niemeyer Council Member	Ward 5	Present	David Austgen Town Attorney	

Nomination of Town Council President

Clerk Treasurer Amy Sund called for nominations for Town Council President. Motion by Jerry Smith and seconded by Greg Parker to nominate Robert Carnahan.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Nomination of Town Council Vice-President

Robert Carnahan called for nominations for Town Council Vice-President. Motion by Jerry Smith and seconded by Randell Niemeyer to nominate Greg Parker.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

DEPARTMENT REPORTS

Police: Chief Roger Patz reported on officer death statistics. Chief Patz stated that he has discussed the roof damage on the north wall at the police station with the Town Administrator. Water from the snow and ice got under the rubber roof causing it to sag and the roof to leak in offices and the police garage. Estimates are being received and a claim has been filed with the insurance company. The first estimate is for \$20,500.00 for repairs; estimates on replacing the roof will be obtained. Chief Patz reported that he is working with business owners regarding counterfeiting. February 24, 2011 at noon; the Chamber of Commerce will be having a luncheon at Harry O's Restaurant to discuss counterfeiting; the Secret Service will be in attendance.

Public Works: No Report.

Parks & Recreation: A written report was distributed to Council prior to the meeting. Mary Joan Dickson highlighted programs and events. The town planner and coupons are out. The next Park Board meeting is January 13, 2011 at 7:00 pm; she invited all to attend.

Clerk-Treasurer: Clerk Treasurer Amy Sund reported that her office is busy with year end items and should have a financial report for the next meeting. Dog tags for 2011 are \$10.00 each with proof of rabies shot through the end of March; \$15.00 each thereafter.

Fire Department: Fire Chief Todd Wilkening submitted a statistical report on call outs to Council prior to the meeting. He stated that he has discussed with Clerk Treasurer Amy Sund the availability of funds for updates and upgrades to the defibrillators and cots for the ambulances which are requirements of the hospitals. Non-reverting EMS call funds are being reviewed.

Town Administrator: Robert Carnahan inquired of Ian Nicolini on the status of the roof at the police department; Ian Nicolini responded that Chief Patz's report described the damages and the Town is awaiting bids and a claim has been submitted to the insurance company. Randy Niemeyer inquired on what is being done; Ian Nicolini stated that temporary patchwork has been done by public works while we are waiting on the adjustor. The option of replacing versus repairing needs to be considered. Chief Patz noted that public works applied tar and currently there are no leaks. Ian Nicolini stated that Council will need to approve the 2011 meeting schedule. Town Council meetings are generally the first and third Tuesday of each month at 7:00 pm with the exceptions being May 5th and July 7th which are Thursday's. Motion by John Foreman and seconded by Randy Niemeyer to approve the 2011 meeting schedule and direct the Clerk Treasurer to notify the press of the dates.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Ian Nicolini stated that the request for proposals for the garbage contract is being prepared.

Town Attorney: Attorney David Austgen stated that he has executive session items.

Town Council: Bob Carnahan stated that a new law has gone into effect stating that televisions and electronics need to be recycled; they can no longer be put in the garbage. Currently Crown Point and Lowell are drop off locations. Motion by Jerry Smith and seconded by Dale Poston to inquire if Lake County Solid Waste can put a container at public works. This would be of no cost to the Town. John Foreman inquired if anyone in Lake County would be able to recycle at public works; Robert Carnahan responded yes anyone in Lake County, not just our residents.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

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Retention of Services:

1. **Engineering Services:** Christopher B. Burke Engineering is the planning, storm water and general Town engineer and NIES Engineering is the wastewater and water utility engineer. Both engineers do not have rate changes. Motion by Jerry Smith and seconded by William Landske to continue the contracts with the current engineers.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

2. **Legal Services:** Austgen, Kuiper and Associates provide legal services for the Town. David Austgen stated that there is no rate change. Motion by Jerry Smith and seconded by Greg Parker to continue with the current legal services.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Town Council Liaison Appointments:

Ian Nicolini read the appointments.

1. Cedar Lake Historical Association - Dale Poston
2. Northwestern Indiana Regional Planning Commission - Robert Carnahan
3. Police Commission - Dale Poston and William Landske
4. Park Board – William Landske
5. Plan Commission – John Foreman, Greg Parker and to be determined
6. Public Works – Robert Carnahan, William Landske and Dale Poston
7. Unsafe Building – Greg Parker
8. Lake County Solid Waste – Robert Carnahan
9. South County Community Development – Robert Carnahan
10. Cedar Lake Summerfest – Randy Niemeyer
11. Stormwater Management Board – Greg Parker
12. Budget & Finance – Randy Niemeyer, Dale Poston, and John Foreman
13. Council Affairs - Jerry Smith and Dale Poston
14. Public Safety combined with Fire/EMS Contract – Greg Parker, John Foreman and Jerry Smith with advisory assistance from the Clerk Treasurer
15. Parks and Public Lands – Town Council as a whole
16. Personnel Policy & Employee Benefits – Randy Niemeyer, John Foreman and Greg Parker
17. Ecosystem Restoration – John Foreman, Dale Poston, and Robert Carnahan
18. Redevelopment Commission – Randy Niemeyer and Robert Carnahan
19. Chamber of Commerce – Robert Carnahan
20. Fire/EMS Contract – combined with Public Safety
21. 133rd Avenue Committee – Dale Poston, Jerry Smith and Willaim Landske

Motion by Jerry Smith and seconded by Greg Parker to accept the Town Council Liaison Appointments.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

PUBLIC COMMENT:

Yvonne Taves of Dewey Street expressed concerns about the Christmas trees; are they going to be cleaned up soon. Robert Carnahan stated that they were going to be picked up. There will be a tree burning at Public Works on January 9, 2011 at 7:00 pm.

WRITTEN COMMUNICATION:

Ian Nicolini stated that he received an email from Richard Riley who represents Horvath Communication regarding the proposed communication tower. Ian Nicolini read the email which stated:

I (Richard Riley) have had an opportunity to review my file and have discovered the following: When I initially approached the Town the location in question was on the Town Hall property in the area of the two existing towers. Subsequently, and before we had the benefit of a formal survey, the tax parcel number for the Town Hall was obtained from the Assessor's office and was submitted as part of the Applications. Both the new and old tax parcel numbers were used but both were incorrect because the site was ultimately moved to the surrounding larger parcel which had a separate Tax Number ID. This tax number was evidently used in determining the distance for the notice requirements to surrounding property owners. When the survey was completed, (You may remember that the site had moved several times and therefore the survey was not completed until the location was certain and that was well into the zoning process) the tax parcel numbers were correctly identified but because they were not in issue the error was not discovered. Horvath Communications regrets this error and formally requests that the Town Board authorizes them to re-file their Applications for Site Plan Review, Use Variance and Developmental Variance. Richard Riley

Robert Carnahan inquired of Ian Nicolini on the process. Ian Nicolini stated that notice requirements were on the perimeter of the complex, not the adjacent property owners to the proposed site. All approvals will need to be restarted as there was inadequate notice. The application will need to be reprocessed and a new list generated from the auditor's office to notify property owners via certified mail; publication and signage based upon the new ordinance will need to be completed. This will need to go through site plan review from the Plan Commission and for use and developmental variances from the Board of Zoning

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Appeals; recommendations will be made to Town Council. Motion by John Foreman and seconded by Jerry Smith to approve the written correspondence and allow Horvath Communication to reapply and start the process again.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

CONSENT AGENDA

1. Minutes of the Regular Public Meeting – Minutes of the December 21, 2010 Public Meeting.
2. Docket: Town Claims 67922 - 67954 for \$246,032.58; Wastewater claims 26231 - 26255 for \$643,059.83; Wastewater Sinking Claims 26239 – 26240 and 26248 – 26254 for \$8,136,858.99; Storm Water claims 67920 – 67921, 67941 and 67948 - 64949 for \$114,632.35; and Water Utility Claims 80489 - 80505 for \$2,492,624.57. Amy Sund noted that there are transactions regarding the sewer and water bonds; principal and interest were paid off; claims are higher than normal. Motion by Jerry Smith and seconded by Greg Parker to approve the consent agenda claims and minutes.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

PUBLIC HEARING

Ordinance No. 1115 – Street Vacation – Vicinity of 12600 Public Way west of Wicker Avenue and east of 1st Street

1. **Attorney Review of Legal's** – Attorney David Austgen stated that the notices and publications are legally correct.
2. **Petitioner's Response** – Brad Hensley of Landmark Engineering stated that this is for the vacation of a right of way that is not being used. Ian Nicolini reviewed the illustration of the right of way vacation area. Vacations have already been made to the north and south of the location.
3. **Remonstrators** – Jack Marsh of Alexander Street inquired if the Town is giving land away. John Foreman responded yes, but we will be getting more taxes; we are going to gain tax revenue.
4. **Council Comments** – There were no comments.
5. **Council Decision** – Ian Nicolini read Ordinance No. 1115 by title only. Motion by John Foreman and seconded by Greg Parker to approve Ordinance No. 1115 with legal description and correct plat of survey sealed by Landmark Engineering. David Austgen recommended attaching the plat to the ordinance for a description of the parcel.

Roll Call Vote: 6 to 1

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	NO

The second reading of the Ordinance will be at the next meeting.

PLANNING/ZONING & BZA

1. Ordinance No. 1116 – Rezone – Lighthouse Restaurant (7501 Constitution Avenue)

To rezone the property to Neighborhood Business (B-1) Zoning District – Favorable Recommendation from the Plan Commission.

David Austgen read Ordinance No. 1116 by title only and section one. The plat should be part of the record. The ordinance only requires one reading. Motion by Jerry Smith and seconded by Greg Parker to approve Ordinance No. 1116.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

ORDINANCES & RESOLUTIONS

1. Ordinance No. 1117 – Amending Salary Ordinance 2011

Ian Nicolini read Ordinance No. 1117 by title only. Section one stated that the Water Utility Superintendent position is being added with a not to exceed rate of \$1,799.20 biweekly (\$22.49 hourly) payable from the Water Utility. Certification of DSM and WT2 are required for this position. Ian Nicolini recommended Mike Schaller for this position. Motion by Jerry Smith and seconded by William Landske to approve Ordinance No. 1117 with pay retroactive to the beginning of this pay period (yesterday, January 3, 2011).

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Motion by Jerry Smith and seconded by William Landske to suspend the rules and have the second reading of Ordinance No. 1117.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Ian Nicolini read Ordinance No. 1117 by title only. Motion by Jerry Smith and seconded by William Landske to approve Ordinance No. 1117.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Ian Nicolini recommended appointing Mike Schaller for the position of Water Utility Superintendent. He has worked with the water utility over the past eighteen months, obtained his license and certifications. With the addition of Robin's Nest Water utility and more customers; this position is important and necessary. He is a dedicated professional in a leadership capacity with hands on

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knowledge. Motion by Jerry Smith and seconded by William Landske to approve the appointment based upon the Town Administrators recommendation.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

2. Ordinance No. 1118 – Recording and Documentation of Meetings.

David Austgen read Ordinance No. 1118 by title only. He explained that Council is enhancing its record keeping. Each and every meeting will be digitally recorded and retained for a minimum of one year. All minutes in draft and approved formats will be retained as well. Ian Nicolini added that this includes all work sessions and public meetings. Motion by Jerry Smith and seconded by Dale Poston to approve Ordinance No. 1118.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Motion by Jerry Smith and seconded by Greg Parker to suspend the rules and have the second reading of Ordinance No. 1118.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

David Austgen read Ordinance No. 1118 by title only. Motion by Jerry Smith and seconded by William Landske to approve Ordinance No. 1118.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

TOWN BUSINESS:

New Business:

1. Ordinance No. 1119 – Job Description – Water Utility Superintendent

Amy Sund read Ordinance No. 1119 by title only. The Water Utility Superintendent answers to the Town Administrator with technical assistance from the operations director. Motion by Jerry Smith and seconded by Greg Parker to approve Ordinance No. 1119.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Motion by Jerry Smith and seconded by Greg Parker to suspend the rules and have the second reading of Ordinance No. 1119.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Amy Sund read Ordinance No. 1119 by title only. Motion by Jerry Smith and seconded by Dale Poston to adopt Ordinance No. 1119.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

2. 133rd Avenue & Industrial Drive – Sanitary Sewer.

Deferred from the December 21, 2010 Town Council Meeting. The feasibility study submitted by NIES Engineering offered three solutions with the third solution (option C, route 1) being the recommended route. The recommended route would eliminate a privately owned, non-maintained lift station. Motion by John Foreman and seconded by Jerry Smith to accept Option C, Route 1 with a probable cost of \$197,000.00.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Motion by Jerry Smith and seconded by Greg Parker to accept the Industrial Drive Sanitary Sewer Design Engineering Proposal submitted by NIES Engineering, Inc. not to exceed \$26,770.00.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

3. Purchase Agreement – Total Patcher Emulsion

The Town of Cedar Lake and the Town of St. John are partnering on the use of the Town's emulsion tank. St. John will purchase their emulsion from the Town at the cost the Town pays for it. There is a digital reader on the tank to record the amount of emulsion the Town of St. John will be billed for. This is a community agreement. Motion by Jerry Smith and seconded by Randy Niemeyer.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Utility Business

1. Garbage Matter – 6914 W. 131st Avenue

Ian Nicolini stated that written correspondence regarding the removal of residential garbage fees for 6914 W. 131st Avenue. Robert Carnahan inquired of David Austgen for a legal opinion on this; David

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Austgen offered no opinion. Motion by John Foreman and seconded by Dale Poston to deny the request. Amy Sund inquired if the owner needs to pay from October to present; Council concurred.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

FINAL COMMENTS:

Town Administrator Comment: Ian Nicolini had no comments.

Town Council Comment: Dale Poston commented on communication and on the web site. He stated that meetings should be digitally broadcast through the website. Ian Nicolini presented the new website which is being updated by departments. Motion by William Landske and seconded by Dale Poston to have Ian Nicolini report back on digital meetings.

Roll Call Vote: 7 to 0

Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

Public Comment:

Father John of W. 134th Place inquired if saving digitally recorded meetings for one year is long enough. It was noted that the recordings will be saved on a central server which will determine the minimum amount of time. David Austgen stated that there is no legal requirement to save the recordings of the meetings; one year is just the minimum. The recording secretary will still maintain written minutes; this just extends and expands the minimum requirements. **Yvonne Taves** of Dewey Street questioned minutes having questions and answers in them; Amy Sund responded that minutes do not need to be verbatim. She thinks that minutes should reflect questions and answers. **Chief Todd Wilkening** of the Fire Department reported that the fire department has no authority over the ice racing on the lake. They are out there at their own risk. The Department of Natural Resources (DNR), Conservation Police, oversees the public lake. **Randy Niemeyer** thanked citizens for allowing him to serve on Council and will serve to the best of his ability.

Adjournment:

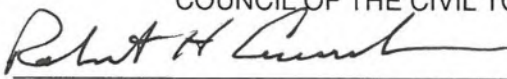
Motion by Jerry Smith and seconded by Greg Parker to adjourn the meeting at 8:25 pm.


Roll Call Vote: 7 to 0


Foreman	Poston	Smith	Niemeyer	Landske	Parker	Carnahan
YES	YES	YES	YES	YES	YES	YES

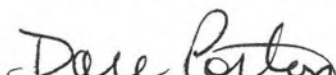
An Executive Session was advertised and conducted pursuant to IC 5-14-1.5-6.1(b) before the meeting with discussion consisting of litigation, acquisition and personnel issues. Those in attendance were Robert Carnahan, John Foreman, William Landske, Randy Niemeyer, Greg Parker, Dale Poston, Jerry Smith, Clerk Treasurer Amy Sund, Town Administrator Ian Nicolini, and Town Attorney David Austgen.


COUNCIL OF THE CIVIL TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA

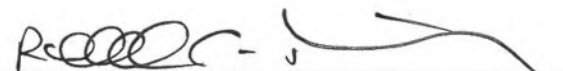

Robert Carnahan, President, Ward 1


Greg Parker, Vice-President, Ward 7

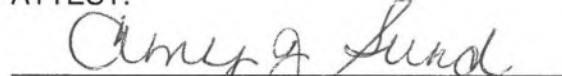

John Foreman, Ward 2

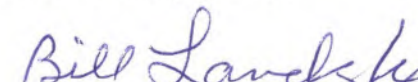

Dale Poston, Ward 3


Jerry Smith, Ward 4


Randell Niemeyer, Ward 5

ATTEST:


Amy J. Sund, IAMO, CMC, Clerk-Treasurer


William Landske, Ward 6

The minutes of the Cedar Lake Town Council are transcribed pursuant to IC 5-14-1.5-4(b) which states:

(b) As the meeting progresses, the following *memoranda* shall be kept:

- (1) The date, time and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken, by individual members if there is a roll call.
- (5) Any additional information required under IC 5-1.5-2-2.5.



January 3, 2011

Ian Nicolini
Town Administrator
Town of Cedar Lake
7408 Constitution Ave.
Cedar Lake, IN 46303

RE: Industrial Drive Sanitary Sewer Design Engineering Proposal

Dear Mr. Nicolini:

Thank you for the opportunity to present this proposal to perform Design Engineering Services for the abovementioned project to the Cedar Lake Town Council. The design will follow the report dated December 14, 2010, entitled "133rd Ave/Industrial Dr. Sanitary Sewer Feasibility Study Report" and the presentation of the report made at the December 21, 2010 Town Council Meeting.

Reference is made to our recent conversations regarding this project. The proposed design will be consistent with Option C, Route 1 as shown in the 133rd Ave/Industrial Dr. Sanitary Sewer Feasibility Study Report and discussed at the Town Council Meeting presentation.

The scope of work for this proposal is as follows:

- Field data collection for the project site as well as the surrounding area to assure proper collection and conveyance of the sanitary sewer system. This data will be a supplement to the basic data collected during the survey and preparation from the 133rd Ave/Industrial Dr. Sanitary Sewer Feasibility Study report. Consideration of the completed work has been included in the scope of the work required to complete the final design by cost reduction.
- Additional document research to supplement prior work completed in the 133rd Ave/Industrial Dr. Sanitary Sewer Feasibility Study Report.
- Project route finalization following utility location and infrastructure site survey.
- Periodic review of the design through completion with staff for input, coordination and value engineering.
- Provide Engineer's Opinion of Construction Cost.
- Prepare plans and specifications for public bidding consistent with Town of Cedar Lake design standards.
- Prepare Bid Tabulation and Report and assist the Town with project award.

We propose to provide engineering design services in the not-to-exceed amount of \$26,770.00 based on the labor rates presented in Table 1. Billings will not exceed the budget without your prior authorization. NIES Engineering, Inc. will directly bill only hours worked to perform the terms of this contract. Direct expenses such as reproduction, mileage and similar items will be billed at actual cost and are included in the contract price. Mileage will be billed at the current and approved IRS rate. The services of others, if required, will be billed at actual cost plus a 5 percent markup. The attached "Standard Conditions for Professional Engineering Services" is included by reference. Should additional Right-of-Way or Easement acquisition be required, that work is outside the scope of work of this proposal and can be added by amendment or on a time and material basis, at your direction. The work performed as part of this agreement would be the basis of the acquisition document preparation, thus reducing the work required to prepare the acquisition documentation.

Again, thank you and the Town Council for the opportunity to present this proposal. Your signature below and return of one copy of this proposal to this office will constitute your acceptance and our notice to proceed.

Thank you for your consideration in this matter. Please call with any questions that you may have.

Yours very truly,
NIES Engineering, Inc.

Neil J Simstad, P.E.
Principal

TOWN OF CEDAR LAKE, INDIANA

Authorized

Date

Attest

Date

cc: Cedar Lake Town Council

Z:\Corr\1219669727.Doc

Table 1

2011 NIES Engineering Personnel Hourly Rates

Classification	Hourly Rate	
	Regular	Overtime
Clerical	\$41.70	\$48.60
Senior Clerical	\$46.00	\$53.60
Administrative Assistant	\$55.60	\$64.90
Senior Administrative Assistant	\$62.10	\$67.30
Technician Level 1	\$46.20	\$53.80
Technician Level 2	\$54.50	\$63.70
Technician Level 3	\$77.40	\$90.40
Technician Level 4	\$82.00	\$95.00
Technician Level 5	\$92.00	\$107.00
Technician Level 6	\$100.00	\$118.00
Engineer Level 1	\$88.80	\$103.60
Engineer Level 2	\$92.00	\$107.00
Engineer Level 3	\$107.80	\$107.80
Engineer Level 4	\$126.70	\$126.70
Engineer Level 5	\$150.50	\$150.50
Project Manager	\$110.80	\$110.80
Senior Project Manager	\$142.50	\$142.50
Principal Level 1	\$120.00	\$120.00
Principal Level 2	\$149.00	\$149.00
Senior Principal	\$170.00	\$170.00

STANDARD CONDITIONS FOR PROFESSIONAL ENGINEERING SERVICES

The term "NIES Engineering" used in these terms and conditions is defined as: NIES Engineering, Incorporated of 2421 173rd Street, Hammond, Indiana 46323; its officers, partners, employees, sub-consultants and sub-contractors.

1. REIMBURSABLE EXPENSES:

1.1. Reimbursable expenses are defined as follows and shall be invoiced at direct cost:

- Reproduction of documents.
- Shipping and mailing expenses.
- Any other disbursements, application fees, etc., made on behalf of the Owner.

2. INDEMNIFICATION:

- 2.1. The OWNER agrees to hold harmless and indemnify NIES Engineering for and against all claims, damages, awards and costs of defense arising out of delays in NIES Engineering's performance resulting from events beyond the NIES Engineering's control.
- 2.2. Whereas construction job-site safety conditions are the sole responsibility of the Construction Contractor, the OWNER agrees to hold harmless and indemnify NIES Engineering for and against all claims, damages, awards and costs of defense arising out of claims related to Construction job-site safety.
- 2.3. The OWNER agrees to stipulate within the Contract Documents that the Contractor shall purchase and maintain, during the course of construction, "all-risk" builder's risk insurance which names the Contractor, the Owner's agents, and NIES Engineering as additional insureds.
- 2.4. It is understood and agreed that if NIES Engineering's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, that such services will be provided for by the Client. If said services are provided for by the Client, then the Client assumes all responsibility for interpretation of the Contract Documents and for construction observation and supervision and waives any claims against NIES Engineering that may be in any way connected thereto. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold NIES Engineering harmless from any loss, claim or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of NIES Engineering.

3. TERMINATION:

- 3.1. This agreement between OWNER and NIES Engineering may be terminated by either party upon written notice in the event of substantial failure of performance of the material terms and conditions of this agreement by the other party through no fault of the terminating party.
- 3.2. If this agreement is terminated during the course of performance of the services, NIES Engineering shall be paid for the services performed during the period prior to the effective date of termination of the agreement.
- 3.3. If, prior to termination of this agreement, any services designed or specified by NIES Engineering during any phase of the service is suspended in whole or in part for more than three months or abandoned after written notice from the OWNER, NIES Engineering shall be paid for such services performed prior to receipt of such notice.

4. BILLING/PAYMENTS:

- 4.1. NIES Engineering reserves the right to adjust billing rates periodically as salary rates are adjusted and to use the most up-to-date billing rates in preparing project invoicing. Periodic salary adjustments will not affect the agreed total contract amount.

5. REUSE OF DOCUMENTS:

- 5.1. All reports, schedules, drawings, specifications of services of NIES Engineering for this project are instruments of services for this project only and shall remain the property of NIES Engineering until the OWNER has compensated NIES Engineering in full for services rendered pursuant to the AGREEMENT. Upon final payment for services and for each separately accepted and authorized proposal for additional services, ownership of instruments of service shall be vested in the OWNER. NIES Engineering, however, may retain record copies of all such instruments of service and may use such for NIES Engineering's exclusive purposes.
- 5.2. Any reuse of reports, schedules, drawings, specifications of services of NIES Engineering for this project without written verification or adaptation by NIES Engineering for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to NIES Engineering, or to NIES Engineering's independent professional associates or consultant, and OWNER shall indemnify and hold harmless NIES Engineering and NIES Engineering's independent professional associates and consultants from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle NIES Engineering to further compensation at rates to be agreed upon by OWNER and NIES Engineering.

6. OPINIONS OF PROJECT COST, CONSTRUCTION AND OPERATION AND MAINTENANCE:

- 6.1. Since NIES Engineering has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor methods of determining prices, or over competitive bidding or market conditions, NIES Engineering's opinions of probable Construction Cost are to be made on the basis of NIES Engineering's experience and qualifications and represent NIES Engineering's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but NIES Engineering cannot and does not guarantee that proposals, bids or actual Construction Cost will not vary from opinions of probable cost prepared by NIES Engineering. Similarly, opinions of Project Cost and Annual Operation and Maintenance Cost cannot be guaranteed because they depend upon numerous factors beyond NIES Engineering's control.

7. DISPUTE RESOLUTION; MEDIATION FIRST REMEDY

- 7.1. In the event dispute or disagreements arise which are not resolved in the ordinary course of business, parties agree to first attempt resolution of such disputes by a meeting of the Managing/Principal Partner of NIES Engineering with the recognized head Administrative Staff representative of the Client and recognized Executive of the Board, Commission or Municipal Body through which the professional services of NIES Engineering are, or have been, approved to be retained. In the event such meeting does not result in amicable resolution, the parties shall next agree to pre-lawsuit mediation under the Alternative Dispute Rules and procedures for the State of Indiana promulgated for such purposes by the State of Indiana. In the event that pre-lawsuit mediation does not result in amicable or mediated resolution of the dispute or disputes in issue, the parties may then pursue any claims, whether legal or equitable, in the Circuit or Superior Courts of Lake County, Indiana.

8. FIDUCIARY RESPONSIBILITY:

- 8.1. CLIENT confirms that NIES Engineering has not offered any financial service to client and no fiduciary responsibility shall be owed to client by NIES Engineering as a consequence of NIES Engineering's entering into this agreement with client.

9. HAZARDOUS MATERIALS:

- 9.1. As used in this Agreement, the term hazardous materials shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as such of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.
- 9.2. Both parties acknowledge that the NIES Engineering's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event NIES Engineering or any other party encounters any hazardous or toxic materials, or should it become known to NIES Engineering that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of NIES Engineering's services, NIES Engineering may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate engineers or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.
- 9.3. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent by law, to indemnify and hold harmless NIES Engineering from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including attorney's fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises

under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the negligence or willful misconduct of NIES Engineering.

10. SEVERABILITY:

- 10.1. If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions or portions thereof shall nevertheless be and remain in full force and effect.

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