



MONROE COUNTY BOARD OF COMMISSIONERS'
WORK SESSION AGENDA
DECEMBER 8, 2021
Via ZOOM

- 1. Sam Crowe**
Discussion regarding inmate communications general service agreement.
- 2. Lisa Ridge**
Revised James Graham Enterprises, LLC agreement



Monroe County Board of Commissioners Agenda Request Form

Date to be heard Formal ☐ Work session ☒ Department

Title to appear on Agenda:

Vendor #

Executive Summary:

Discuss the agreement with Combined Public Communications (CPC) a telecommunications system that will provide service to the inmates. Col. Crowe is wanting to discuss the possibility of switching to CPC from our current inmate communication provider.

Fund Name(s):

Fund Number(s):

Amount(s)

Presenter:

Speaker(s) for Zoom purposes:

Name(s)

Phone Number(s)

(the speaker phone numbers will be removed from the document prior to posting)

Attorney who reviewed:



Combined Public Communications, LLC
Inmate Communications General Service Agreement ("Agreement")

Combined Public Communications, LLC ("CPC"), with its principle place of business located at 100 Aqua Drive in Cold Spring, Kentucky 41076 and the Monroe County Sheriff's Department ("Customer") with its principle place of business at 301 N. College Avenue in Bloomington, IN 47404 agree as follows:

Exclusive Agreement

Customer agrees to exclusively permit CPC to install the Inmate Telecommunications System ("ITS") that will process pre-paid calls, including local and long distance traffic, and associated hardware and software within all pre-existing and future jail and / or detention facilities. CPC shall also be the exclusive provider of all related existing and future inmate communications and personal inmate communication devices which include, but are not limited to, voice, data and video communication. Communications and communication devices include, but are not limited to, phone calls, messaging applications, email, and video. CPC and Customer agree that no other type of inmate personal communication devices will be installed in the jail / detention facility for inmate use without written agreement between both parties.

CPC Equipment:

The ITS and all associated equipment installed under this Agreement shall remain the sole and exclusive property of CPC. Customer will promptly report to CPC misuse, destruction, or vandalism of the system and associated equipment. Customer will not use the ITS for Customer's business purposes nor list or advertise in any manner the telephone numbers of the ITS without the prior written consent of CPC.

Customer Access to Equipment and Reports:

CPC will provide Customer with password protected access to the ITS, allowing Customer's staff to monitor and record calls and run call detail reports. Customer agrees to limit access to the ITS to only those staff members and employees of Customer having a legitimate need for access, and CPC shall not be responsible for the actions of Customer's staff members and employees having access to the ITS. Call detail reports will be stored off site at a secure CPC location. CPC technicians will train Customer's authorized staff on the usage of the system.

Service Agreement:

All service and maintenance of the ITS will be the sole responsibility of CPC.

KIOSK and/or Vending Machine:

Customer agrees to exclusively permit CPC to install a KIOSK and/or vending machine(s) for the purpose of selling prepaid talk time minutes, any other inmate communication services, and any other products that CPC may offer to the inmate or friends and family. The KIOSK or vending machine location(s) will be agreed upon by the Customer and CPC and remain operable and on site throughout the term of the Agreement. CPC technicians will service, stock and maintain the machine(s).

Agreement Term:

This Agreement will remain in force and effective for twenty-four (24) months from the Commencement Date. Unless written notice is delivered to either party at least ninety (30) days prior to the expiration of the initial term or any renewal term of this Agreement, this Agreement shall automatically renew for a twelve (12) month term upon the same terms and conditions as set forth herein.



Commission:

Upon the implementation of all proposed services, commission will be paid monthly to the Customer based upon average daily population (ADP) and is agreed as follows: sixty dollars (\$60) per inmate per month.

Services Implemented	Monthly Payment
ITS, Inmate Chirping System, and CPC View VV & Email	\$60 / inmate / month

The guaranteed commission will be subject to an adjustment on a semiannual basis, beginning six months from the contract commencement date, based on sixty percent (60%) commission on revenue generated from ITS talk time usage, twenty percent (20%) on chirping usage, and twenty-five percent (25%) on View remote video visitation and email usage. If the combined percentage commission rate is higher than the sum of the guaranteed monthly payments, CPC will pay customer a one-time adjustment payment within 30 days of the end of each semiannual period.

The monthly commission payments and annual adjustments are dependent on the full implementation, activation, and usage of the Inmate Telephone System (ITS), View Video Visitation (VV), and Inmate Chirping System. CPC will pay the County a monthly payment, based on Average Daily Population (ADP) and the implementation of the following services:

ITS – This service includes the implementation of direct pay and pin debit prepaid talk time sold over the phone from CPC's Customer Service Center, the web site www.inmatesales.com, and the CPC ITS Lobby Deposit KIOSK.

View Video Visitation (VV) – This service must be turned on the CPC View System. See **Attachment A** for additional information related to CPC and Customer responsibilities regarding the CPC View System.

Inmate Chirping System – Chirping System implementation, activation and usage is based on sixty percent (60%) of the inmate population utilizing the Inmate Chirping Service daily. Inmates must have the ability to utilize this service for a minimum of twelve (12) hours a day, seven (7) days a week. If less than sixty percent (60%) of inmate population is utilizing the chirpers, or inmates are unable to have access to the service for a minimum of twelve (12) hours a day, seven (7) days a week, CPC reserves the right to adjust the proposed commission and bonus compensation with thirty (30) day notice. CPC reserves the right throughout the agreement term to fully examine any information pertaining to the Customer's ADP. See **Attachment B** for information related to implementation and activation of the Inmate Chirping System.

All monthly payments and bonus compensation are based on the fact that CPC has exclusive rights to provide all personal inmate communication and revenue generating devices within all pre-existing and future jail and / or detention facilities.

**Pin Debit Transfers:**

Customer may ask CPC to interface with Customer's commissary services provider for the purpose of allowing phone time Pin Debit transfers from an inmate's commissary trust account into an inmate's prepaid phone time account with CPC. As such, deposits will be made into the commissary trust account for the benefit of inmates and collected by and held by Customer. At the time an inmate initiates a transfer to Vendor to purchase prepaid phone time, CPC's system will recognize the prepaid purchase, but Customer will continue to hold the cash deposit. At the end of each month, CPC will invoice Customer for the total amount of inmate-initiated transfers from the commissary trust account to purchase phone time.

Customer agrees that payment terms for this invoice will be "due upon receipt" and will be paid to CPC directly from the commissary trust fund. Additionally, at the request of CPC, Customer agrees to work with CPC to establish a direct ACH transfer to transfer money from the commissary trust account to CPC for the total amount of commissary pin debit transfers. In the event that an invoice remains unpaid for greater than thirty (30) days, CPC, in its sole discretion, may withhold payment of any commissions or other payments due to Customer until the past due invoice has been paid. Customer explicitly agrees that the non-payment by CPC of commissions or other payments due to past due invoices does not constitute a breach by CPC of this Agreement.

Interface Requirements

CPC products and services require an interface with Customer's software that stores inmate data (commonly called JMS). The required inmate data varies based on the products and services being installed. In order to implement services included with this Agreement, CPC requires one of the following options:

Customer or Customer's JMS provider must complete a cost-free interface written to CPC specifications developed, tested, configured, and completely functional 7 days prior to CPC turning on any products or services requiring inmate data.

Customer must provide a cost-free, direct connection to Customer's system's database to pull the required inmate data. CPC can install program to extract the required data, on a server on the same network where Customer's data is stored for the life of the Agreement. The installation of this program would require assistance by a person familiar with the network and server. The installation of this program requires remote access by CPC. The program and installation is provided free of charge to Customer for the life of the Agreement. CPC and Customer will discuss method no later than 30 days prior to implementation and complete it 7 days prior to the installation of CPC services.

Taxes, Regulatory & Network Fees:

Taxes, regulatory and service fees are deducted at the point of sale; network connection costs are deducted from the total talk time usage.

Calling Rates:

CPC will charge telephone rates allowed by tariff, if applicable. The rates may be amended by CPC and the Customer.

Liability:

CPC will have no liability for damage to Customer's premises from the installation, use or removal of the ITS or associated equipment unless such damage is the direct result of negligence of CPC agents or employees. Customer agrees that all recordings required to be obtained and stored as part of providing services under this Agreement are property of the Customer. Customer further agrees that CPC will have no liability for the content of recordings stored on behalf of the Customer. In no event shall CPC's aggregate liability to Customer under this Agreement exceed the amount paid to CPC under this Agreement.



Indemnification:

CPC hereby agrees to indemnify and hold harmless the Customer from any and all claims arising after the Commencement Date by reason of allegations of excessive charges in violation of any state or federal statute or regulatory ruling. In the event of future legislation or administrative regulation materially alters the charges which may be made by CPC, CPC agrees to abide by any such statute or ruling and bring their conduct of charges into compliance with said authority. In the event that any future legislation or administrative regulation materially alters the terms of this Agreement, then this Agreement shall, at the option of either party, be subject to re-negotiation between the parties. Customer agrees to indemnify and hold harmless CPC from any and all claims arising after the Commencement Date arising from any illegal or unauthorized access granted by Customer to the ITS and/or any illegal or unauthorized use or disclosure of the recordings and other information contained in the ITS by Customer's employees, staff members and any other persons granted access to the ITS by Customer.

CPC shall comply with all State of Indiana and Monroe County applicable laws and regulations. CPC shall indemnify and save harmless the Monroe County Board of Commissioners for any fines or expenses of any nature which it might incur from CPC's noncompliance.

Regulatory Changes:

In the event that new and/or revised government regulations prevent CPC from providing commission or services to the Customer, CPC will have the right to renegotiate this Agreement with the Customer. CPC reserves the right to change rates, commission, financial compensation & fees upon thirty days' written notice to Customer if such changes arise from any of the following: any (a) rule, regulation, or other action by any government or regulatory entity resulting in increased costs to CPC (b) change in taxes, (c) a change in other communication rates within facility.

In the event that new and/or revised rule, regulation, or other action by any government or regulatory entity arises, Customer may request that rates may be amended to a non-commission option during the term of agreement. If requested by customer, CPC and customer will negotiate in good faith regarding reduction of rates if customer agrees to no longer receive commission or other financial compensation. CPC can accommodate if the Customer requests to transition to a model where inmate telephone services are paid for by the Customer or taxpayer funded.

Call Rates

Prepaid calling within the U.S.	\$0.20 per minute
Prepaid International Calling	Begins @ \$1.00 per minute, a list of countries and costs will be supplied to customer

Service Level Agreement

Response time:

An individual phone outage:	24 hours
Section of the building outage:	4 hours
Complete system wide outage:	2 hours

A routine service failure with no impact on the administrative functions of the system such as an individual phone outage, repair time is 24 hours.



Uncontrollable Circumstances:

CPC and Customer reserve the right to renegotiate this Agreement if circumstances arise outside our control related to acts of God, change in call rates, regulations, operations mandated by law, reduction in inmate population or capacity, material changes in jail policy or economic conditions.

Maintenance and Repair:

CPC may remove or replace the ITS or associated equipment from any given location when damage to the system or associated equipment, whether by vandalism or otherwise, warrants removal. CPC, with the consent of Customer, may adjust the number of inmate telephones at the premise when, in CPC's judgment, the revenue generated by the existing inmate telephones warrants such adjustments.

Termination:

This Agreement may be terminated, at any time, by either party, upon thirty (30) days written notice. If the Agreement is terminated by the Customer, the Customer shall pay any expenses incurred and non-refundable. In the event any governmental tariff or regulation prevents CPC from providing services or such tariffs or regulations make continuation of this Agreement impractical for economic reasons or otherwise, then CPC at its sole discretion may terminate this Agreement without liability. In the event of a termination of this Agreement for any reason, the Customer agrees to allow CPC access to the facility in order to remove all equipment, including but not limited to inmate telephones and all associated equipment. CPC agrees to remove the equipment within thirty (30) days after termination of this Agreement.

Resolution of Disputes:

Any and all disputes arising under this Agreement shall be brought in a court of appropriate venue and competent jurisdiction.

Authority to Represent:

Each party to this Agreement warrants and represents that it has the unrestricted right and prerequisite authority to enter into and execute this Agreement, to bind the respective party, and to authorize the installation and operation of the ITS equipment. Furthermore, by signing this document Customer confirms to CPC that the detention facility described herein is not under any contract or agreement with any other inmate telephone provider. The person signing this Agreement on behalf of Customer has the authority and hereby directs CPC to install the ITS and equipment. The rights and obligations of this Agreement will be binding and shall inure to the benefit of the respective parties, their subsequent owners, successors, heirs, and assignees.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound, have executed this Agreement to be effective beginning on the ____ day of _____, _____ (the "Commencement Date"¹). Any and all previous contracts and agreements entered into between these parties are null and void.

Monroe County Sheriff's Department

Combined Public Communications

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

¹ Commencement Date will be filled in to match date of complete installation and activation of the inmate telephone system.



Combined Public Communications, LLC
Inmate Communications General Service Agreement
Attachment A – CPC View Responsibilities

WHEREAS, this Attachment relates to the Inmate Communications General Service Agreement originally entered into by Combined Public Communications, LLC ("CPC"), and Monroe County Sheriff's Department ("Customer") with its principle place of business at 301 N. College Avenue in Bloomington, IN 47404.

Equipment

CPC will provide, install, and maintain the CPC View In-Pod Kiosk Solution that includes up to twenty-eight (28) View Units, twenty-eight (28) stools, one (1) server and required bandwidth. The equipment will always remain the property of CPC.

Video Visitation

Customer agrees to utilize Remote Video Visitation along with Onsite Video Visitation.

Feature	Rate
Onsite Video Visitation	n/a
Remote Video Visitation	\$0.20/min

Email

Customer agrees to utilize email.

Feature	Rate
Email	\$0.50/email

Fast Case Law Library

CPC will provide the Customer access to Fast Case Law Library Service (Service). The annual cost of this Service is based on the average daily population (ADP) of 220 inmates at one dollar (\$1.00) per inmate per month for a total of \$220.00 per month. The yearly Service fee will be deducted from the customer's monthly commission. This Service is subject to a monthly commission deduction on an annual basis. This service is subject to an annual ADP adjustment and will automatically renew on an annual basis. Customer should initial one of the following options regarding this technology:

_____ Option 1: Customer agrees to utilize this Service.

_____ Option 2: Customer is not interested in utilizing this Service.



CPC Responsibilities

CPC will provide and install the View units and associated operational hardware, provide ongoing service, support and maintenance throughout the term of the Agreement.

Customer Responsibilities:

It is the Customer's responsibility to stop, block, or reprimand behavior for videos, emails, email attachments, or any other communication passed on the View System that is considered to be inappropriate by the Customer.

Remote Video Visitation Storage

CPC will store remote video visits for ninety (90) days.

Monroe County Sheriff's Department

Combined Public Communications

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____



Combined Public Communications, LLC
Inmate Communications General Service Agreement
Attachment B – Inmate Chirping System

WHEREAS, this Attachment relates to the Inmate Communications General Service Agreement originally entered into by Combined Public Communications, LLC (hereafter "CPC"), and the Monroe County Sheriff's Department (hereafter "Customer"). At no cost, CPC will provide the Customer a messaging service² for inmate usage called Chirping to the Customer as follows:

Exclusive Agreement

Customer agrees to exclusively permit Vendor the right to install, support and maintain a messaging platform and service within all pre-existing and future jail and/or detention facilities controlled by Sheriff.

CPC Provides:

CPC will provide, install and maintain Chirping devices, associated operational hardware, charging stations and transport containers (a tub and/or cart). Additionally, CPC will provide ongoing service, support and maintenance of the Chirping devices and platform. At no cost to County, CPC will supply and install all wiring in the new facility associated with this Inmate Messaging Service.

Customer Provides:

Customer provides a secure area for a tub and/or cart to store and charge chirping devices, as well as electric (AC) to charge devices, at no charge to CPC; additionally, Customer will provide the labor to check the devices in/out and keep the chirping devices charged.

Chirping Rates, Funding & Fees:

Chirping rates include - four dollars (\$4.00) per month per chirping device and phone number, and ten cents (\$0.10) per chirp. Chirping funds are added by friends and family through customer service center or the inmatesales.com web site. Funding fees include - a three-dollar (\$3.00) funding fee through inmatesales.com or a five dollar and ninety-five cent (\$5.95) fee through Vendors live representative customer service center, plus credit card fees.

Device Loss/ Damage & Replacement Policy:

Each device has a value of two hundred dollars (\$200.00). The inmate will be charged the device value if damaged or lost while assigned to him/her. The replacement cost will be deducted from the device account until paid in full before another device is assigned to the inmate.

Monroe County Sheriff's Department

Combined Public Communications

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____

² U.S. Patent Nos. 10,082,835 and 10,085,126. Used under license from Hank Technology LLC."



Combined Public Communications, LLC
Inmate Communications General Service Agreement
Attachment C – Additional Conditions

1. Acceptance of this Agreement is evidence that there is intent to comply with the Americans with Disabilities Act of 1990, Rehabilitation Act of 1973, and Title VI of the 1964 Civil Rights Act.
2. CPC will comply with IC 22-5-1.7 et seq. Specifically including the following:
 - A. CPC to enroll in and verify the work eligibility status of all newly hired employees of CPC through the E-Verify program.
 - B. CPC is not required to verify the work eligibility status of all newly hired employees of CPC through the E-Verify program, if the E-Verify program no longer exists.
 - C. CPC must sign an affidavit affirming that <>AGENCY does not knowingly employ an unauthorized alien.
3. Non-discrimination. In the performance of work under this Agreement, it is agreed that CPC, any of its subcontractors, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any program participant because of his/her race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran.
4. Harassment. In the performance of work under this Agreement, it is agreed that CPC, any of its subcontractors, or any person acting on their behalf shall not, in any manner, engage in any form of harassment on County time and County property, including harassment based on age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, housing status, or any other legally-protected classification.



LETTER OF AGENCY

This Letter of Agency ("LOA") dated _____ between the _____ ("Customer") and Combined Public Communications, LLC. ("CPC") hereby grants CPC the authority to act as Customer's agent for the coordination of all correction and public telephone activities. All information requested should be forwarded to: Combined Public Communications, LLC, P.O. Box 76573, Highland Heights, Ky. 41076. Customer hereby directs you, the Corrections Telephone and Payphone Services Provider ("PSP") to forward to CPC at the above address any and all contract information (including, but not limited to effective and expiration dates, renewal and termination terms and conditions, and exclusivity clauses) pertaining to PSP and the Customer correction telephone and payphone location(s) listed below for the purpose of managing all activities relating to Customer's correction telephones and payphones. PSP's failure to respond with this information within seven (7) business days of receipt of this request shall be deemed by Customer and CPC to indicate that no such contract exists, or that the term of said contract has expired, or that PSP has abandoned its rights under said contract. Such failure to respond will result in action consistent with the absence of a contract, which may include the Customer's removal of your corrections telephone system, telephones and payphones from this location.

Notice: Effective on the date of this LOA, Customer hereby serves notice that it wishes not to renew any existing contract with PSP after the existing term.

Location / Address: _____

This authorization supersedes any previous Letters of Agency or Authorization Letters that may exist, and shall remain in effect until terminated by either party in writing.

_____ (Customer's Name)	Combined Public Communications, LLC
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Print Title: _____	Print Title: _____
Date: _____	Date: _____



Inmate Communications General Service Agreement– ACH Authorization

CPC can issue commission as an ACH (Automated Clearing House) transaction or a check. Please check the appropriate box and fill out the corresponding information.

☐ Issue ACH payments to the information below:

ACH Information:

Customer Name: _____

Remittance Address: _____

Remittance City: _____ State: _____ Zip Code: _____

Contact Name: _____ Phone #: _____

E-Mail Address: _____

Banking Information:

Customer's Bank Name: _____

Bank Address: _____

Bank's City: _____ State: _____ Zip Code: _____

Bank Contact Name: _____ Phone #: _____

ABA Routing #: _____ Account #: _____

Account Type (please check only one) Checking ☐ Savings ☐

Customer's Authorization:

Please sign below to confirm that you are authorizing CPC to begin transferring payments for your invoices to the account mentioned above.

Signature

Title

Phone Number

Date

☐ Issue commission payment as a check to the address listed below:

Commission check made out to:

Customer Name: _____

Remittance Address: _____

Remittance City: _____ State: _____ Zip Code: _____

Contact Name: _____ Phone #: _____

Signature

Title



APPROVED BY THE MONROE COUNTY BOARD OF COMMISSIONERS

this ____ day of _____ 202__, pursuant to Monroe County Code Chapter 266-5.

“AYES”

“NAYS”

Julie Thomas, President

Julie Thomas, President

Lee Jones, Vice President

Lee Jones, Vice President

Penny Githens, Member

Penny Githens, Member

ATTEST:

Catherine Smith, Auditor



Monroe County Board of Commissioners Agenda Request Form

Date to be heard Formal ☐ Work session ☒ Department

Title to appear on Agenda:

Vendor #

Executive Summary:

This agreement was approved and signed at the December 1, 2021 meeting. However, the company had the incorrect hourly rate on the agreement. It is \$24.50 per hour and not \$22.50 per hour. An updated agreement is attached and signed by the vendor.

I spoke with Jeff Cockerill on 12/3/2021 and he suggested I just add this to the work session.

Fund Name(s):

Fund Number(s):

Amount(s)

Presenter:

Speaker(s) for Zoom purposes:

Name(s)

Phone Number(s)

(the speaker phone numbers will be removed from the document prior to posting)

Attorney who reviewed:

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (Agreement) for the performance of professional services is entered into as of this [] day of [], 2021, (hereinafter referred to as the "effective date of the Agreement"), by and between James Graham Enterprises of Bloomington LLC, hereinafter called "Contractor," located at 3499 N Starnes Rd, Bloomington Indiana 47404, and the Monroe County, Indiana, Board of Commissioners, hereinafter called "Client," located at Monroe County Courthouse, 100 W Kirkwood Avenue, Bloomington, Indiana 47404.

WITNESSETH

WHEREAS, the Client is authorized to make and enter into all contracts or agreements which it determines necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by the State of Indiana;

WHEREAS, in accordance with its procurement procedures, the Client has determined that it desires to hire the Contractor to perform certain services as set forth herein; and

WHEREAS, the Contractor desires to assist the Client as provided herein;

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein set forth, and the undertakings of each party to the other, the Client and the Contractor, acting as aforesaid and each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

I. SCOPE OF SERVICES AND CONTRACTOR'S ASSURANCE

Contractor shall, in a professional manner, perform the services ("services" or "work") set forth in Exhibit A, attached to this Agreement. Contractor assures the Client that Contractor possesses a complete understanding of the scope of services and possesses the profession skills and means to perform the services.

II. COMPENSATION

- a. Contractor shall be compensated at a rate of \$24.50 per hour.
- b. Contractor shall promptly bill Client for all authorized professional fees and expenses incurred on a monthly basis in the performance of the services. Client shall make payment in full to Contractor within thirty (30) days of the date of each invoice,
- c. If the Client does not make payment in full to the Contractor within sixty (60) days of the date of an invoice, Contractor may suspend services upon 7 days written notice on the basis of non-performance on the part of the Client. When all payments due have been made, the Contractor will continue their services,

III. PERIOD OF PERFORMANCE

Contractor agrees to commence performance of services hereunder upon receipt of a written

"Notice to Proceed." Client recognizes that Contractor's work and the completion thereof may be conditioned upon Client's review of Contractor's work and/or the timely performance and completion of certain activities by Client. Contractor shall not be held liable for delays in performance of services hereunder that arise from causes beyond Contractor's reasonable control and without its fault or negligence.

IV. CLIENT RESPONSIBILITY

- A. Client shall identify and coordinate all services to be performed hereunder.
- B. Client shall provide Contractor, in a timely fashion, all information reasonably required for the performance of the services by Contractor to be performed hereunder.
- C. Client shall upon execution of the Agreement, assign a representative of the Monroe County Highway Department, as coordinator of the project described herein and of the services to be performed under this Agreement,
- D. Client shall provide Contractor with reasonable access to the premises necessary for the performance of the services required under this Agreement.

V. INDEPENDENT CONTRACTOR

It is understood and agreed that the Contractor shall provide services under this Agreement as an independent contractor and that during the performance of services under this Agreement, the Contractor:

- is NOT performing this work under the supervision or direction of the Client.
- shall use non-Client materials and equipment to perform this work and to develop and duplicate any and all materials. • shall have exclusive control over the means, methods and details of fulfilling the obligations under this Agreement and is not to receive direction or supervision from any Client employee or representative, except that the Client will provide feedback to and review any drafts submitted by Contractor.
- executes this Agreement as an independent contractor, and shall not be considered an employee or agent of the Client for any purpose.
- shall pay all taxes, withholdings and contributions required by Social Security (FICA) laws, Indiana and federal income tax laws, and Indiana unemployment insurance laws, as required by law.

VI. TERMINATION

It is hereby agreed that if either party should fail materially to fulfill its obligations under this Agreement, the other party must notify the breaching party of the intent to terminate the contract, in whole or in part, if the breach is not cured as provided in this Article. Such notice to the breaching party shall be given, in the manner required in Article XII of this Agreement, and shall identify the breach to be cured. The breaching party shall have thirty (30) days from receipt of the notice to cure the breach identified in the notice. The failure to cure the breach within the thirty (30) days period shall entitle the non-breaching party to terminate the Agreement*

The Contractor shall use reasonable efforts to minimize fees and expenses upon giving notice of any intended termination. Upon receiving notice of intent to terminate from the Client and until the cure is accepted by the Client, Contractor shall limit its fees and expenses to those reasonably necessary to affect the cure, Client shall pay the Contractor all fees and expenses accrued for services rendered up to the effective date of any termination,

Vii. INDEMNIFICATION

Contractor assumes all risks and responsibilities for accidents, injuries or damages to person(s) or property related to performance pursuant to this Agreement, and agrees to indemnify and save harmless the Client from all claims, costs or suits of whatever nature, including attorneys' fees, related to performance of the Agreement* except such claims, costs or suits arising out of the negligence of Monroe County or its employees

Viii.CHANGES

Changes or amendments to this Agreement may be made only in writing signed by a duly authorized representative of each of the parties, Changes in scope of the project dictated by the Client and changing conditions of law or schedule delays or other events beyond the Contractor's reasonable control may require contract price and/or date of performance revisions to reflect such changes or delays.

Ix.ASSIGNMENT AND DELEGATION

Neither party shall assign or delegate this Agreement or any right, duties or obligations hereunder to any person and/or entity without prior express written approval to the other *

x, TRADEMARK AND TRADE NAME

Notwithstanding any other provision of this Agreement, neither party shall have the right to use the trademark or trade name of the other without prior written approval of the other.

Xi.NOTICES

All notices shall be in writing and be deemed to be given or made when delivered by hand or by regular US mail as follows:

A. Notices to the Contractor shall be addressed to:

James Graham Enterprises of Bloomington LLC 3499
N Starnes Rd.
Bloomington IN 47404

B. Notices to the Client shall be addressed to:

Lisa Ridge, Monroe County Highway Director

Monroe County Highway Department
501 N Morton St. Suite 216 Bloomington IN 47404

XII. GENERAL PROVISIONS

- A. Entire Agreement: This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understandings, or other matters, whether oral or written, are hereby merged into and made a part hereof and are of no further force or effect. This agreement may be amended, changed, or supplemented only by written agreement executed by both of the parties hereto.
- B. Conflict: In the event of any conflict, ambiguity or inconsistency between this Agreement and any other document which may be annexed hereto, the terms of this Agreement shall govern.
- C. Waiver: No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this agreement, or to exercise any option of election herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue and remain in full force and effect, and no waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy hereunder or at law. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy available at law or in equity.
- D. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement* or the applications of such term or provisions of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- E. Captions: Captions and paragraph headings are inserted only as a matter of convenience and in no way define, limit* or describe the scope or intent of this Agreement,
- F. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.
- G. Non-discrimination. Contractor is aware of the Client's policy prohibiting harassment of any kind. If Contractor becomes aware of any harassment, Contractor shall immediately report harassment to the Monroe County Legal Department. In the performance of work under this Agreement, it is agreed that Contractor, any of its subcontractors, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any employee or job applicant with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of their race, religion, color, sex, national origin, ancestry, sexual orientation, gender identity, disability, housing status, or status as a veteran — or discriminate by reason of such

factors, against any citizen of the State of Indiana who is qualified and available to perform the work.

H, Compliance with Law. Contractor shall comply with all State of Indiana and Monroe County applicable laws and regulations, including the County's policy prohibiting harassment.

Contractor shall indemnify and save harmless Client for any fines or expenses of any nature which it might incur from Contractor's noncompliance.

XIII. EMPLOYMENT ELIGIBILITY VERIFICATION

The Contractor shall not knowingly employ or contract with any unauthorized alien. The Contractor shall not retain an employee or contract with a person whom the Contractor learns is an unauthorized alien. If required by law, Contractor will comply with IC 22-5-1.7 et seq. Specifically including the following:

- Contractor shall enroll in and verify the work eligibility status of all newly hired employees of the Contractor through the E-Verify program.
- Contractor is not required to verify the work eligibility status of all newly hired employees of the Contractor through the E-Verify program, if the E-Verify program no longer exists. • Contractor must sign an affidavit affirming that Contractor does not knowingly employ an unauthorized alien.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have caused this agreement to be executed as of the date first written above.

Monroe County Board of
Commissioners

Penny Githens, Member

By: _____

(Date)

Julie Thomas, President

(Date)

James Graham Enterprises of Bloomington
LLC

By: _____

James Graham Enterprises of Bloomington LLC

Lee Jones, Vice President

(Date)

(Date)