

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, MAY 22, 1989**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:07 p.m. on Monday, May 22, 1989, with Councillor SerVaas presiding.

Councillor Strader lead the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

29 PRESENT: Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Gilmer, Golc, Hawkins, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Rhodes, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, Strader, West, Williams

A quorum of twenty-nine members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Howard introduced Judges Thomas Carroll, Evan Goodman, Taylor Baker, Charles Wiles, Richard Sallee and Gerald Zore, who were present for Proposal No. 267, 1989; Judges William Steckler and Robert Bayt, and former mayors Charles Boswell and John Barton, who were present for Proposal No. 303, 1989.

Councillor Shaw introduced his friend, Darren Barnes.

Councillor Williams introduced Nate Miller, a student from Northside High School.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

You are hereby notified that REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers on Monday, May 22, 1989, at 7:00 p.m., the purposes of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Beurt SerVaas
Beurt SerVaas, President
City-County Council

May 9, 1989

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in The Indianapolis NEWS and The Indianapolis COMMERCIAL on Thursday, May 11, 1989, a copy of NOTICE TO TAXPAYERS of a Public Hearing on Proposal Nos. 266, 267, 268, 274, 275, 277, 278, and 279, 1989, to be held on Monday, May 22, 1989, at 7:00 p.m. in the City-County Building.

Respectfully,
s/Beverly S. Rippy
Beverly S. Rippy, City Clerk

May 11, 1989

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have this day approved with my signature and delivered to the Clerk of the City-County Council, Mrs. Beverly S. Rippy, the following ordinances and resolutions:

FISCAL ORDINANCE NO. 49, 1989, amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional Two Hundred Seventy-one Thousand Six Hundred Twenty-one Dollars (\$271,621) in the County General Fund for purposes of the Marion County Justice Agency and reducing certain other appropriations for that Agency.

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FISCAL ORDINANCE NO. 50, 1989, amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional Ten Thousand Dollars (\$10,000) in the Park General Fund for purposes of the Department of Parks and Recreation, Golf Division, and reducing certain other appropriations for that Division.

GENERAL ORDINANCE NO. 42, 1989, amending the "Code of Indianapolis and Marion County, Indiana", Section 29-92, Schedule of Intersection traffic controls.

SPECIAL RESOLUTION NO. 29, 1989, honoring USRA Light Mikado No. 587 Locomotive.

SPECIAL RESOLUTION NO. 30, 1989, honoring George M. Bixler, Jr.

SPECIAL RESOLUTION NO. 31, 1989, transferring to the Marion County Justice Agency Board responsibility for pre-trial services of its subject agencies.

Respectfully submitted,
s/William H. Hudnut, III
William H. Hudnut, III

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TO THE HONORABLE PRESIDENT AND MEMBERS OF THE POLICE SPECIAL SERVICE DISTRICT OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have this day approved with my signature and delivered to the Clerk of the Police Special Service District, Mrs. Beverly S. Rippy, the following ordinance:

FISCAL ORDINANCE NO. 4, 1989, amending the Police Special Service District Annual Budget for 1989 (Police Special Service District Fiscal Ordinance No. 4, 1988) appropriating an additional Thirty-five Thousand Dollars (\$35,000) in the Law Enforcement Continuing Education Fund for purposes of the Department of Public Safety, Police Division, and reducing the unappropriated and unencumbered balance in the Law Enforcement Continuing Education Fund.

Respectfully submitted,
s/William H. Hudnut, III
William H. Hudnut, III

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF JOURNALS

President SerVaas called for additions or corrections to the Journal of May 8, 1989. There being no additions or corrections, the minutes were approved as distributed.

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**PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS,
AND COUNCIL RESOLUTIONS**

PROPOSAL NO. 303, 1989. This proposal memorializes Phillip L. Bayt. Councillor Giffin spoke of some of the highlights of Mr. Bayt's career. Councillor Golc introduced Mr. Bayt's wife, Mary Stanisa Bayt, his son, Judge Robert Bayt, his son's wife, Kathy, and their son. Councillor Golc also introduced Judges Zore and Steckler, former mayors Boswell and Barton, and friends of Mr. Bayt's, Messrs. Art Sullivan and Bob O'Neal. Councillor Golc read letters from Judges James Noland and John Tranberg, who were not able to be present. Mr. Boswell read the resolution and presented a framed document to Mrs. Mary Bayt, who expressed her appreciation for the recognition. Councillor Golc moved, seconded by Councillor Giffin, for adoption. Proposal No. 303, 1989, was adopted by unanimous voice vote.

Proposal No. 303, 1989, was retitled SPECIAL RESOLUTION NO. 33, 1989, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 33, 1989

A SPECIAL RESOLUTION memorializing Phillip L. Bayt.

WHEREAS, Phillip L. Bayt, the son of an Austrian immigrant, served as Mayor of Indianapolis for portions of two terms during the 1950's, during which time he was an early advocate of cleaning up and beautifying the city decades before aesthetics became a common urban concern throughout the nation; and

WHEREAS, Mr. Bayt additionally served the city, county and state as the chief deputy of the Marion County Sheriff's Department, city controller, Municipal Court judge, Marion County prosecutor and as a member of the Public Service Commission; and

WHEREAS, he will long be remembered by his friends as a hard worker, a strong family man, and as an inspiration to many others to become involved in the governmental process; now, therefore;

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council commends the foresight and service of Mayor Phillip L. Bayt, and recognizes him as an outstanding leader in this community.

SECTION 2. The Council extends its sympathy to his wife, Mary Stanisa Bayt; his two sons, Phillip "Buddy" and Judge Robert Bayt; and to his brothers, sisters and grandchildren.

SECTION 3. The Mayor is invited to join in his resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 302, 1989. This proposal honors the 500 Gordon Pipers, Inc. Councillor Golc read the resolution and presented a framed document to the founder, Gordon Diehl, who expressed his appreciation for the recognition, and he and his Scottish bagpipe band performed for the Council. Councillor Golc moved, seconded by Councillor Howard, for adoption. Proposal No. 302, 1989, was adopted by unanimous voice vote.

Proposal No. 302, 1989, was retitled SPECIAL RESOLUTION NO. 32, 1989, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 32, 1989

A SPECIAL RESOLUTION honoring the 500 Gordon Pipers, Inc.

May 22, 1989

WHEREAS, since its creation on March 9, 1962, the 500 Gordon Pipers, Inc. ("Gordon Pipers") has entertained thousands of people with its distinctive Scottish bagpipe music; and

WHEREAS, the 33-member Gordon Pipers has performed in the past 25 consecutive 500 Festival Parades, at Bristol, Rhode Island's 200-year-old annual 4th of July parade, has been to Scotland twice, to Canada every year, and participates in numerous festivals and events throughout Indiana, Ohio and Illinois; and

WHEREAS, its members are from the United States, Scotland, Ireland and Canada, and play the 2,000 year-old musical instrument that is associated with Scotland at more than 50 events each year; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council, on behalf of the people of this city, congratulates the 500 Gordon Pipers, Inc. for its work in perpetuating the traditional Scottish bagpipe and music; for "Doc" Wallace Gordon Diehl, DVM, as Pipe Major and founder of the Gordon Pipers; and for the group's being a goodwill ambassador of Indianapolis to the many places it visits.

SECTION 2. The Indianapolis Council extends its best wishes to all communities visited by the Gordon Pipers, and prays that those communities extend to this group of musicians all due courtesies.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NOS. 286 and 287, 1989. Councillor Rhodes reported that the Administration Committee heard Proposal Nos. 286 and 287, 1989, on May 15, 1989. PROPOSAL NO. 286, 1989, reappoints Donald Hargadon to the Cable Franchise Board. PROPOSAL NO. 287, 1989, reappoints Donald Elliott to the Cable Franchise Board. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Rhodes moved, seconded by Councillor Holmes, for adoption. Proposal Nos. 286 and 287, 1989, were adopted by unanimous voice vote.

Proposal No. 286, 1989, was retitled COUNCIL RESOLUTION NO. 38, 1989, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 38, 1989

A COUNCIL RESOLUTION reappointing Donald Hargadon to the Cable Franchise Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Cable Franchise Board, the Council appoints:

Donald Hargadon

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1989. The person appointed by this resolution shall serve at the pleasure of the Council and until his successor is appointed and has qualified.

Proposal No. 287, 1989, was retitled COUNCIL RESOLUTION NO. 39, 1989, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 39, 1989

A COUNCIL RESOLUTION reappointing Donald Elliott to the Cable Franchise Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

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SECTION 1. As a member of the Cable Franchise Board, the Council appoints:

Donald Elliott

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1989. The person appointed by this resolution shall serve at the pleasure of the Council and until his successor is appointed and has qualified.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 292, 1989. Introduced by Councillor Rhodes. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE appropriating \$75,000 for the Department of Administration, Office of the Director, to pay legal fees for pending litigation concerning cable franchises"; and the President referred it to the Administration Committee.

PROPOSAL NO. 293, 1989. Introduced by Councillor Borst. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION designating Boulevard Place from 24th Street to 38th Street "Rev. Richard T. Andrews Memorial Way"; and the President referred it to the Metropolitan Development Committee.

(Clerk's Note: Councillor Irvin said that Proposal No. 293, 1989 needs to be corrected to read "Rev. Richard T. Andrews Memorial Area" instead of "Rev. Richard T. Andrews Memorial Way" due to prior Council action. President SerVaas, with the consent of the proposal's sponsor, Councillor Howard, stated that Proposal No. 293, 1989, would be corrected.)

PROPOSAL NO. 294, 1989. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE appropriating \$667,097 for the Community Corrections Agency for the state grant for the fiscal year 1989-1990"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 295, 1989. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE transferring and appropriating \$1,824 for the Community Corrections Agency to cover the severance pay for an employee who has resigned"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 296, 1989. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE appropriating \$52,528 for the Superior Court, General Term Reporter, IV-D Court to remodel, expand and furnish the Title IV-D Court and to add one more bailiff"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 297, 1989. Introduced by Councillor McGrath. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION approving the Mayor's appointment of Paula Parker Sawyers as Deputy Mayor for a term ending December 31, 1989"; and the President referred it to the Rules and Policy Committee.

PROPOSAL NO. 298, 1989. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code by authorizing two-hour parking meters on Hudson Street, St. Joseph Street, Meridian Street and Indiana Avenue"; and the President referred it to the Transportation Committee.

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PROPOSAL NO. 299, 1989. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code by authorizing one- and two-hour parking and rush-hour restrictions in various locations"; and the President referred it to the Transportation Committee.

PROPOSAL NO. 300, 1989. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code by prohibiting parking on the west side of Clarendon Road at 38th Street"; and the President referred it to the Transportation Committee.

PROPOSAL NO. 301, 1989. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code by authorizing a loading zone at 300 North Meridian Street for Browning Investments"; and the President referred it to the Transportation Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 304, 1989. Introduced by Councillor Borst. The Clerk read the proposal entitled "REZONING ORDINANCE certified by the Metropolitan Development Commission on April 25, 1989". The Council did not schedule Proposal No. 304, 1989, for hearing pursuant to IC 36-7-4-608. Proposal No. 304, 1989, was retitled REZONING ORDINANCE NO. 101, 1989, and is identified as follows:

REZONING ORDINANCE NO. 101, 1989. 89-Z-60 (AMENDED) PIKE TOWNSHIP
COUNCILMANIC DISTRICT NO. 1
7350 WEST 38TH STREET, INDIANAPOLIS.
C.P. MORGAN COMPANY, INC., by Harry F. McNaught, requests the rezoning of 48.7 acres, being in the "A" district, to the PK-2 classification to provide for 39.7 acres of single-family residential and 9.00 acres of special/multi-family residential uses.

PROPOSAL NOS. 305 - 306, 1989. Introduced by Councillor Borst. The Clerk read the proposals entitled "REZONING ORDINANCES certified by the Metropolitan Development Commission on May 10, 1989".

Councillor West moved, seconded by Councillor Borst, that Proposal No. 306, 1989 (Rezoning Case 89-Z-93), be scheduled for a hearing before the Council on June 5, 1989 at 7:00 p.m. and that the Clerk read the announcement of such hearing and enter same in the minutes of this meeting. Councillor West said that Proposal No. 306, 1989, deals with a new library service center and that it has been discovered that the soil in this area is contaminated by a leaking underground storage tank. This property must be cleaned up before it can be rezoned. Consent was given to hold a public hearing on Proposal No. 306, 1989, at the June 5, 1989 Council meeting.

The Council did not schedule Proposal Nos. 305, 1989, for hearing pursuant to IC 36-7-4-608. Proposal Nos. 305, 1989, was retitled REZONING ORDINANCE NO. 102, 1989, and is identified as follows:

REZONING ORDINANCE NO. 102, 1989. 89-Z-88 CENTER TOWNSHIP
COUNCILMANIC DISTRICT NO. 16
1934 NORTH ILLINOIS STREET, INDIANAPOLIS.
BARTH ELECTRIC COMPANY, INC., by Mary E. Solada, requests the rezoning of 2.80 acres, being in the C-4/RC and HD-2 districts, to the C-S/RC classification to provide for a mixed use facility including use by contractors, warehouses, distributors, and wholesalers.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 266, 1989. Councillor Rhodes reported that the Administration Committee heard Proposal No. 266, 1989, on May 15, 1989. The proposal appropriates \$375,000 for the Department of Administration, Office of the Director, to replenish monies needed in the Workmen's Compensation Fund as created in 1985 to fund employees' claims under the Indiana Compensation Act. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 7:58 p.m. There being no one present to testify, Councillor Rhodes moved, seconded by Councillor Coughenour, for adoption. Proposal No. 266, 1989, was adopted on the following roll call vote; viz:

25 YEAS: *Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Golc, Hawkins, Holmes, Howard, Jones, McGrath, Moriarty, Mukes-Gaither, Rhodes, Ruhmkorff, Schneider, SerVaas, Solenberg, Strader, West*

0 NAYS

4 NOT VOTING: *Gilmer, Irvin, Shaw, Williams*

Proposal No. 266, 1989, was retitled FISCAL ORDINANCE NO. 51, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 51, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) appropriating an additional Three Hundred Seventy-five Thousand Dollars (\$375,000) in the City General Fund for purposes of the Department of Administration, Office of the Director, and reducing the unappropriated and unencumbered balance in the City General Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.01 of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for the purposes of the Department of Administration, Office of the Director, to replenish monies needed in the Workmen's Compensation Fund as created in 1985 to fund employees' claims under the Indiana Compensation Act.

SECTION 2. The sum of Three Hundred Seventy-five Thousand Dollars (\$375,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

3. Other Services & Charges
TOTAL INCREASE

CITY GENERAL FUND

\$375,000
\$375,000

SECTION 4. The said additional appropriations are funded by the following reductions:

Unappropriated and Unencumbered
City General Fund
TOTAL REDUCTION

CITY GENERAL FUND

\$375,000
\$375,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 267, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 267, 1989, on May 10, 1989. The proposal appropriates \$181,849 to the Clerk of the Circuit Court to provide personnel,

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postage, forms and printing to comply with duties currently being performed by Municipal Court staff.

Councillor Dowden stated that by a 6-3 vote, the Committee reported the proposal to the Council with the recommendation that it do pass; however, the Clerk of the Circuit Court has since reported that because there is a new presiding judge of the Municipal Courts to be appointed, Proposal No. 267, 1989, should be delayed. Councillor Dowden moved, seconded by Councillor West, to Table Proposal No. 267, 1989. Proposal No. 267, 1989, was tabled by unanimous voice vote.

PROPOSAL NO. 268, 1989. Councillor Borst reported that the Metropolitan Development Committee heard Proposal No. 268, 1989, on May 16, 1989. The proposal appropriates \$250,000 for the Department of Metropolitan Development, Development Services Division, to deal with unsafe building conditions through rigorous boarding, repair and demolition effort. By a 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 8:07 p.m. There being no one present to testify, Councillor Borst moved, seconded by Councillor Boyd, for adoption. Proposal No. 268, 1989, was adopted on the following roll call vote; viz:

26 YEAS: *Borst, Boyd, Brooks, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Golc, Hawkins, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Rhodes, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, West, Williams*
0 NAYS
3 NOT VOTING: *Clark, Gilmer, Strader*

Proposal No. 268, 1989, was retitled FISCAL ORDINANCE NO. 52. 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 52, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) appropriating an additional Two Hundred Fifty Thousand Dollars (\$250,000) in the Consolidated County Fund for purposes of the Department of Metropolitan Development, Development Services Division, and reducing the unappropriated and unencumbered balance in the Consolidated County Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.01 of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for the purposes of Department of Metropolitan Development, Development Services Division, to deal with unsafe building conditions through rigorous boarding, repair and demolition effort.

SECTION 2. The sum of Two Hundred Fifty Thousand Dollars (\$250,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

DEPARTMENT OF METROPOLITAN DEVELOPMENT	
<u>DEVELOPMENT SERVICES DIVISION</u>	<u>CONSOLIDATED COUNTY FUND</u>
3. Other Services & Charges	\$250,000
TOTAL INCREASE	\$250,000

SECTION 4. The said additional appropriations are funded by the following reductions:

	<u>CONSOLIDATED COUNTY FUND</u>
Unappropriated and Unencumbered Consolidated County Fund	\$250,000

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TOTAL REDUCTION

\$250,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 274, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 274, 1989, on May 10, 1989. The proposal appropriates \$9,000 for the Superior Court, Criminal Division, Probation Department, to replace a nine year old copy machine and to pay for costs of a maintenance agreement. By a 8-0-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 8:09 p.m. on Proposal Nos. 274, 275, 277, 278 and 279, 1989. No one was present to testify on Proposal Nos. 274, 275, 277, 278 and 279, 1989.

Councillor Dowden moved, seconded by Councillor Borst, for adoption. Proposal No. 274, 1989, was adopted on the following roll call vote; viz:

25 YEAS: Borst, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Dumil, Giffin, Golc, Hawkins, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, West, Williams

1 NAY: Boyd

3 NOT VOTING: Gilmer, Rhodes, Strader

Proposal No. 274, 1989, was retitled FISCAL ORDINANCE NO. 53, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 53, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) appropriating an additional Nine Thousand Dollars (\$9,000) in the Supplemental Adult Probation Fees Fund for purposes of the Superior Court, Criminal Division, Probation Department and reducing the unappropriated and unencumbered balance in the Supplemental Adult Probation Fees Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (LL) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for the purposes of the Superior Court, Criminal Division, Probation Department to replace a copy machine nine (9) years old that is requiring maintenance and to pay for costs of a maintenance agreement.

SECTION 2. The sum of Nine Thousand Dollars (\$9,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

SUPERIOR COURT - CRIMINAL DIVISION	SUPPLEMENTAL ADULT
<u>PROBATION DEPARTMENT</u>	<u>PROBATION FEES FUND</u>
3. Other Services & Charges	\$2,000
4. Capital Outlay	<u>7,000</u>
TOTAL INCREASE	\$9,000

SECTION 4. The said additional appropriations are funded by the following reductions:

	<u>SUPPLEMENTAL ADULT</u>
	<u>PROBATION FEES FUND</u>
Unappropriated and Unencumbered	
Supplemental Adult Probation Fees Fund	<u>\$9,000</u>
TOTAL REDUCTION	\$9,000

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SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 275, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 275, 1989, on May 10, 1989. The proposal appropriates \$14,890 for the Superior Court, Criminal Division, Probation Department, to purchase word processing equipment; thereby, completing a three-year phase in automation necessitated by increased work load. By a 9-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Dowden moved, seconded by Councillor Holmes, for adoption. Proposal No. 275, 1989, was adopted on the following roll call vote; viz:

23 YEAS: *Borst, Brooks, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Gilmer, Golc, Holmes, Howard, Irvin, Jones, Moriarty, Mukes-Gaither, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, Strader, West*
1 NAY: *Boyd*
5 NOT VOTING: *Clark, Hawkins, McGrath, Rhodes, Williams*

Proposal No. 275, 1989, was retitled FISCAL ORDINANCE NO. 54, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 54, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) appropriating an additional Fourteen Thousand Eight Hundred Ninety Dollars (\$14,890) in the Supplemental Adult Probation Fees Fund for purposes of the Superior Court, Criminal Division, Probation Department and reducing the unappropriated and unencumbered balance in the Supplemental Adult Probation Fees Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (LL) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for the purposes of the Superior Court, Criminal Division, Probation Department to purchase word processing equipment for the typing pool thereby completing a three (3) year phase in automation, necessitated by increased work load.

SECTION 2. The sum of Fourteen Thousand Eight Hundred Ninety Dollars (\$14,890) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

SUPERIOR COURT, CRIMINAL DIVISION <u>PROBATION DEPARTMENT</u> 3. Other Services & Charges 4. Capital Outlay TOTAL INCREASE	<u>SUPPLEMENTAL ADULT PROBATION FEES FUND</u> \$ 575 <u>14,315</u> \$14,890
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SECTION 4. The said additional appropriations are funded by the following reductions:

Unappropriated and Unencumbered Supplemental Adult Probation Fees Fund TOTAL REDUCTION	<u>SUPPLEMENTAL ADULT PROBATION FEES FUND</u> <u>\$14,890</u> \$14,890
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SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 277, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 277, 1989, on May 10, 1989. The

proposal appropriates \$30,056 for the Presiding Judge of the Municipal Court for the purpose of transferring a grant program from the Forensic Services Agency to the Municipal Court. By a 7-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Shaw, for adoption. Proposal No. 277, 1989, was adopted on the following roll call vote; viz:

23 YEAS: Boyd, Brooks, Cottingham, Coughenour, Curry, Dowden, Giffin, Gilmer, Golc, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Ruhmkorff, Schneider, Ser-Vaas, Shaw, Solenberg, West, Williams

0 NAYS

6 NOT VOTING: Borst, Clark, Dumil, Hawkins, Rhodes, Strader

Proposal No. 277, 1989, was retitled FISCAL ORDINANCE NO. 55, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 55, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional Thirty Thousand and Fifty-six Dollars (\$30,056) in the State and Federal Grant Fund for purposes of the Presiding Judge of the Municipal Court and reducing certain other appropriations for the Forensic Services Agency.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (bb) (y) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for purposes of transferring a grant program from the Forensic Services Agency to the Municipal Court.

SECTION 2. The sum of Thirty Thousand and Fifty-six Dollars (\$30,056) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>PRESIDING JUDGE OF THE MUNICIPAL COURT</u>	<u>STATE AND FEDERAL GRANT FUND</u>
1. Personal Services	\$30,056
TOTAL INCREASE	\$30,056

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>FORENSIC SERVICES AGENCY</u>	<u>STATE AND FEDERAL GRANT FUND</u>
1. Personal Services	\$30,056
TOTAL REDUCTION	\$30,056

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Dowden asked for consent to vote on Proposal Nos. 278 and 276, 1989, together since they both relate to the same type of programs. Consent was given.

PROPOSAL NO. 278, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 278, 1989, on May 10, 1989. The proposal appropriates \$2,541 for the Forensic Services Agency to purchase reagents for drug testing. PROPOSAL NO. 276, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 276, 1989, on May 10, 1989. The proposal appropriates \$1,891 for the Presiding Judge of the Municipal Court for personnel for the Drug Monitored Release program for January through

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May, 1989. By 7-2 votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

The President called for public testimony at 8:12 p.m. on Proposal No. 278, 1989. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Holmes, for adoption of Proposal Nos. 278 and 276, 1989.

Proposal Nos. 278 and 276, 1989, were adopted on the following roll call vote; viz:

25 YEAS: *Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Gilmer, Golc, Hawkins, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Ruhmkorff, Schneider, Shaw, Solenberg, Strader, Williams*

0 NAYS

4 NOT VOTING: *Borst, Rhodes, SerVaas, West*

Proposal No. 278, 1989, was retitled FISCAL ORDINANCE NO. 56, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 56, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional Two Thousand Five Hundred Forty-one Dollars (\$2,541) in the County Corrections Fund for purposes of the Forensic Services Agency and reducing certain other appropriations from the Presiding Judge of the Municipal Court.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (y) (bb) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Forensic Services Agency to purchase reagents for drug testing.

SECTION 2. The sum of Two Thousand Five Hundred Forty-one Dollars (\$2,541) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>FORENSIC SERVICES AGENCY</u>	<u>COUNTY CORRECTIONS FUND</u>
2. Supplies	\$2,541
TOTAL INCREASE	\$2,541

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>PRESIDING JUDGE OF THE MUNICIPAL COURT</u>	<u>COUNTY CORRECTIONS FUND</u>
1. Personal Services	\$ 841
3. Other Services & Charges	1,700
TOTAL REDUCTION	\$2,541

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 276, 1989, was retitled FISCAL ORDINANCE NO. 57, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 57, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional One Thousand Eight Hundred Ninety-one Dollars (\$1,891) in the State and Federal Grant Fund for purposes of the Presiding Judge of the Municipal Court and reducing certain other appropriations for that office.

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BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (bb) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Presiding Judge of the Municipal Court for personnel for the Drug Monitored Release Program for January through May, 1989.

SECTION 2. The sum of One Thousand Eight Hundred Ninety-one Dollars (\$1,891) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>PRESIDING JUDGE OF THE MUNICIPAL COURT</u>	<u>STATE AND FEDERAL GRANT FUND</u>
1. Personal Services	\$1,891
TOTAL INCREASE	\$1,891

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>PRESIDING JUDGE OF THE MUNICIPAL COURT</u>	<u>STATE AND FEDERAL GRANT FUND</u>
2. Supplies	\$ 93
3. Other Services & Charges	1,683
4. Capital Outlay	115
TOTAL REDUCTION	\$1,891

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 279, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 279, 1989, on May 10, 1989. The proposal appropriates \$97,728 for the Community Corrections Agency to purchase electronic monitoring equipment. By a 6-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Shaw, for adoption. Proposal No. 279, 1989, was adopted on the following roll call vote; viz:

24 YEAS: *Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Dumil, Golc, Hawkins, Holmes, Howard, Jones, Moriarty, Mukes-Gaither, Rhodes, Ruhmkorff, SerVaas, Shaw, Solenberg, Strader, West, Williams*
4 NAYS: *Giffin, Gilmer, Irvin, Schneider*
1 NOT VOTING: *McGrath*

Proposal No. 279, 1989, was retitled FISCAL ORDINANCE NO. 58, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 58, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) appropriating an additional Ninety-seven Thousand Seven Hundred Twenty-eight Dollars (\$97,728) in the State and Federal Grant Fund for purposes of the Marion County Community Corrections Agency and reducing the unappropriated and unencumbered balance in the State and Federal Grant Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (aaa) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Marion County Community Corrections Agency to purchase electronic monitoring equipment.

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SECTION 2. The sum of Ninety-seven Thousand Seven Hundred Twenty-eight Dollars (\$97,728) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

MARION COUNTY COMMUNITY <u>CORRECTIONS AGENCY</u>	<u>STATE AND FEDERAL GRANT FUND</u>
4. Capital Outlay	\$97,728
TOTAL INCREASE	\$97,728

SECTION 4. The said additional appropriations are funded by the following reductions:

	<u>STATE AND FEDERAL GRANT FUND</u>
Unappropriated and Unencumbered	
State and Federal Grant Fund	\$97,728
TOTAL REDUCTION	\$97,728

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - UNFINISHED BUSINESS

PROPOSAL NO. 253, 1989. Councillor Schneider reported that the Economic Development Committee heard Proposal No. 253, 1989, on April 19, 1989. The proposal is a special ordinance authorizing the remarketing of a portion of the bonds originally issued in the aggregate principal amount of \$12,245,000 for Westside Christian Retirement Village, Inc., dated September 1, 1980, and approving and authorizing other actions in respect thereto. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Schneider moved, seconded by Councillor Gilmer, for adoption. Proposal No. 253, 1989, was adopted on the following roll call vote; viz:

24 YEAS: Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Gilmer, Golc, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Ruhmkorff, Schneider, Ser-Vaas, Shaw, Solenberg, Strader

0 NAYS

5 NOT VOTING: Hawkins, Mukes-Gaither, Rhodes, West, Williams

Councillors Mukes-Gaither and Williams abstained due to possible conflicts of interest.

Proposal No. 253, 1989, was retitled SPECIAL ORDINANCE NO. 10, 1989, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 10, 1989

A SPECIAL ORDINANCE authorizing the remarketing of a portion of the bonds originally issued in the aggregate principal amount of \$12,245,000 for Westside Christian Retirement Village, Inc., (the "Original Owner") dated September 1, 1980, and approving and authorizing other actions in respect thereto.

WHEREAS, the City of Indianapolis has previously issued its Economic Development First Mortgage Revenue Bonds, Series A (Westside Christian Retirement Village, Inc. Project) in the aggregate principal amount of \$12,245,000 and dated September 1, 1980 (the "1980 Bonds") the net proceeds of which were loaned to the Original Owner to assist in the financing of a 160-unit multi-story retirement facility (containing approximately 130,000 square feet), 39 beds of comprehensive nursing care (in 20 units) and 20 beds of residential care (in 10 units) in a single story building (containing approximately 15,500 square feet) and certain common areas and facilities located at 8616 West 10th Street, Indianapolis, Indiana (the "Project"); and

WHEREAS, Bank One, Indianapolis, NA (formerly American Fletcher National Bank and Trust Company), as trustee (the "Trustee") of the 1980 Bonds, has brought, on behalf of the holders of the 1980 Bonds, an action in

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the Superior Court of Marion County, Indiana (the "Court") to foreclose on the mortgage relating to the Project after default by the Original Owner; and

WHEREAS, on December 5, 1989, the Court, after affording notice to all of the holders of the outstanding 1980 Bonds, issued its Findings of Fact, Conclusions of Law, and Order in the foreclosure proceeding, granting judgment to the Trustee, in the amount of \$14,994,000.73 plus interest accruing after December 1, 1988; and

WHEREAS, the Court also ordered the Project to be offered for sale under special conditions which anticipated a minimum sale price of \$5,851,111 and ultimate payment to the holders of the outstanding 1980 Bonds of less than the face amount thereof; and

WHEREAS, at the Sheriff's sale on January 25, 1989, the Trustee was the only bidder for the Project, bidding for credit against its judgment the sum of \$5,851,111; and

WHEREAS, the Trustee has negotiated with Westside Limited Partnership (the "Company"), an Indiana Limited Partnership, a purchase agreement pursuant to which the Company would acquire the Project for the price of \$5,851,111 and continue to operate the Project for the benefit of senior citizens; and

WHEREAS, pursuant to the bond documents executed in relation to the Project (the "1980 Bond Documents"), the Trustee would apply the proceeds of the sale of the Project to the payment of the holders of the outstanding 1980 Bonds; and

WHEREAS, the Company is seeking to finance its acquisition of the Project by having a portion of the outstanding 1980 Bonds remarketed; and

WHEREAS, it is contemplated that the terms of the 1980 Bond Documents shall be modified only to the extent necessary to substitute the Company for the Original Owner as Obligor; and

WHEREAS, without the remarketing of a portion of the outstanding 1980 Bonds as contemplated herein, the Project is unlikely to be able to maintain its operations and continue to provide residential care facilities for the elderly without significant cost increases to the residents of the Project; and

WHEREAS, the Indianapolis Economic Development Commission, on April 12, 1989, approved substantially final forms of the Supplemental Trust Indenture; the Amended Loan Agreement, Mortgage and Security Agreement; the Agreement for Sale and Purchase of Real Estate and Personal Property in Contemplation of Foreclosure; the Preliminary Remarketing Memorandum; the Remarketing Agreement; and the form of the City of Indianapolis, Indiana, Economic Development First Mortgage Revenue Bonds (Westside Limited Project) (the "Remarketed Bonds") (hereinafter referred to collectively as the "Financing Documents") by Resolution adopted prior in time to this date, which Resolution has been transmitted hereto; now, therefore:

**BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. It is hereby found that the remarketing of a portion of the outstanding 1980 Bonds referred to in the Financing Documents previously approved by the Indianapolis Economic Development Commission now presented to this City-County Council, the sale of its Remarketed Bonds, the loan of the net proceeds thereof to Westside Limited for the purpose of financing the Project, and the repayment of said loan by Westside Limited will be of benefit to the health and general welfare of the City of Indianapolis and its citizens and does comply with the purposes and provisions of I.C. 36-7-11.9 and 36-7-12, as amended.

SECTION 2. The forms of the Financing Documents approved by the Indianapolis Economic Development Commission are hereby approved, and all such documents shall be inserted in the minutes of the City-County Council and kept on file by the Clerk of the Council or City-Controller. Two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

SECTION 3. Remarketed Bonds in an aggregate principal amount not to exceed \$7,000,000 shall be sold for the purpose of procuring funds to loan to the Company in order to finance the acquisition of the economic development facilities heretofore referred to as the Project and pay certain allowable offering costs, such Project being more particularly set out in the Financing Documents incorporated herein by reference, which Remarketed Bonds will be payable as to principal, premium, if any, and interest solely from the payments made by the Company on its Promissory Note in the principal amount equal to the aggregate principal amount of the Remarketed Bonds, which Promissory Note will be executed and delivered by the Company to evidence and secure said loan and as otherwise provided in the above described Financing Documents. The Remarketed Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City of Indianapolis.

SECTION 4. The Trustee is authorized and directed to sell and deliver such Remarketed Bonds to the Underwriter designated in the Remarketing Agreement upon payment to the Trustee of \$5,851,111, for the benefit of the holders of the original bonds. The Remarketed Bonds shall bear interest at a stated per annum rate of interest of thirteen

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percent (13%) for the Term Bonds due September 1, 2010, and a stated per annum rate of interest not to exceed eleven and one half percent (11.5%) pursuant to the maturity schedule regarding Serial Bonds contained in the Preliminary Remarketing Memorandum. The use of a Remarketing Memorandum in substantially the same form as the Preliminary Remarketing Memorandum approved herein is approved for use and distribution by the Underwriter and its agents in connection with the remarketing of the Remarketed Bonds.

SECTION 5. The Mayor and City Clerk are authorized and directed to execute those Financing Documents which require the signature of the Mayor and City Clerk approved herein, and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed, on behalf of the City of Indianapolis. The signatures of the Mayor and City Clerk on the Remarketed Bonds may be facsimile signatures. The City Clerk and City Controller are authorized to take such action in conjunction with the Trustee to arrange for the delivery of such Remarketed Bonds to the Underwriter designated in the Remarketing Agreement, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and City Clerk may by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures on the Remarketed Bonds or their manual signatures thereof approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or City Clerk without further approval of this City-County Council or the Indianapolis Economic Development Commission if such changes do not affect terms set forth in I.C. 36-7-12-27 (a)(1) through (a)(10).

SECTION 6. The provisions of this Ordinance and the Financing Documents shall constitute a contract binding between the City of Indianapolis and the holder or holders of the Remarketed Bonds, and after the sale and delivery of said Remarketed Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Remarketed Bonds or the interest thereon remains unpaid.

SECTION 7. The provisions of this Ordinance do not in any way repeal or amend City-County Special Ordinance No. 23, 1980, as amended by City-County Special Ordinance No. 37, 1980, except to the extent of the amendments set forth herein.

SECTION 8. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 270, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 270, 1989, on May 17, 1989. The proposal amends Chapter 10 of the Code to authorize the MECA Board to exercise certain powers with respect to the implementation and maintenance of an Enhanced 9-1-1 emergency telephone service. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Dowden moved, seconded by Councillor Holmes, for adoption. Proposal No. 270, 1989, was adopted on the following roll call vote; viz:

27 YEAS: Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Dumil, Giffin, Gilmer, Golc, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, Strader, West, Williams

0 NAYS

2 NOT VOTING: Hawkins, Rhodes

Proposal No. 270, 1989, was retitled GENERAL ORDINANCE NO. 43, 1989, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 43, 1989

A GENERAL ORDINANCE amending Chapter 10 of the "Code of Indianapolis and Marion County, Indiana" by authorizing the Metropolitan Emergency Communications Agency Board to exercise certain powers with respect to the implementation and maintenance of an Enhanced 9-1-1 emergency telephone service in Marion County.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA

SECTION 1. Section 10-4 of the "Code of Indianapolis and Marion County, Indiana" is hereby amended by adding the underscored language as follows:

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Sec. 10-4. Powers and duties of board.

(a) The board, in accordance with IC 36-8-15, shall have the authority to finance, purchase, contract for, acquire, lease, construct, equip, erect, upgrade, install and maintain public safety communications and computer facilities for the public safety agencies within the district which are subject to budget review by the city-county council.

(b) The board may enter into interlocal cooperation agreements with other political subdivisions for the financing, purchase, acquisition, lease, construction, equipping, erection, upgrade and installation and public safety communications and computer facilities for public safety agencies within the district which are not subject to budget review by the city-county council.

(c) The board shall coordinate all activities necessary to insure compatibility of all public safety communications and computer systems within the district.

(d) The board, in accordance with IC 36-8-16, shall have the following powers with respect to an enhanced emergency telephone system:

(1) to lease, purchase, or maintain enhanced emergency telephone equipment;

(2) to negotiate and enter into contracts with a service supplier for the provision of enhanced emergency telephone system services;

(3) to authorize the issuance of bonds or other obligations to purchase, or to pay any lease rentals for the lease of, an enhanced emergency telephone system;

(4) to negotiate and enter into leases, contracts or other obligations to provide funds for the making of payments required under contracts entered into with service providers for the provision of enhanced emergency telephone system services;

(5) to pledge money in the emergency telephone system fund established pursuant to IC 36-8-16 for the purposes permitted by IC 36-8-16;

(6) to perform the obligations and exercise the rights of the City of Indianapolis and Marion County, Indiana under a certain Enhanced 9-1-1 Service Agreement between the City of Indianapolis/Marion County, Indiana and Indiana Bell Telephone Company, dated August 25, 1988 and amended on December 20, 1988, which Agreement is hereby ratified by the Council;

(7) to perform the obligations and exercise the rights of the City of Indianapolis and Marion County, Indiana under a certain Service Lease Agreement between the City of Indianapolis and Marion County, Indiana dated April 14, 1989; and

(8) to exercise such other powers and perform such other duties as are granted to the city and the county under IC 36-8-16 with respect to the implementation, financing, operation and maintenance of an enhanced 9-1-1 emergency telephone system, except as such powers and duties may be delegated by statute to other officers of agencies;

provided that no contract or lease entered into after the effective date of this ordinance which obligates the city or county to make annual contractual or lease payments in excess of \$100,000 and no bond or other obligation issued after the effective date of this ordinance to finance the purchase, or lease of enhanced emergency telephone equipment or the making of payments to a service provider under a contract for enhanced emergency telephone service shall be valid unless the council has first approved such contract, lease, bond or other obligation.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 271, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 271, 1989, on May 17, 1989. The proposal imposes a monthly enhanced emergency telephone system fee of thirty cents for each exchange access facility used in Marion County, amends Chapter 10 of the Code. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Dowden stated that:

1. Enhanced 911 is an improvement in the service now provided when someone telephones 911 for emergency police, firefighters or ambulance aid.

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2. The surcharge revenue will pay for the Enhanced 911 service that Indiana Bell Telephone Company will provide throughout the county over a 10-year period beginning in 1990.
3. A monthly surcharge of thirty cents per telephone line will be added to each business or residential customer's telephone bill.

Councillor Cottingham asked if residents in Wayne Township had to pay the surcharge, and Councillor Dowden said the residents in Wayne Township and the City of Speedway will have to pay the surcharge.

Councillor Dowden moved, seconded by Councillor Howard, for adoption. Proposal No. 271, 1989, was adopted on the following roll call vote; viz:

25 YEAS: Borst, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Dumil, Giffin, Gilmer, Golc, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Mukes-Gaither, Rhodes, Ruhmkorff, SerVaas, Shaw, Solenberg, West, Williams

2 NAYS: Boyd, Strader

2 NOT VOTING: Hawkins, Schneider

Proposal No. 271, 1989, was retitled GENERAL ORDINANCE NO. 44, 1989, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 44, 1989

A GENERAL ORDINANCE to impose a monthly enhanced emergency telephone system fee for each exchange access facility used in Marion County, and amending the "Code of Indianapolis and Marion County, Indiana".

WHEREAS, the City of Indianapolis/Marion County ("City/County") and Indiana Bell Telephone Company, Incorporated ("Indiana Bell") entered into an Enhanced 9-1-1 Service Agreement on August 25, 1988, and Addendums thereto on December 20, 1988 and February 10, 1989, whereby Indiana Bell agreed to provide an Enhanced 9-1-1 system ("Enhanced 9-1-1 System") for the City/County ("Service Agreement"), and

WHEREAS, under the Service Agreement, the City/County is obligated to make certain payments for the provision of the Enhanced 9-1-1 System service; and

WHEREAS, Indiana Code 38-8-16-5 provides for adoption of an ordinance to impose a monthly enhanced emergency telephone system fee for each exchange access facility used in the County ("Enhanced 9-1-1 surcharge") to fund Enhanced 9-1-1 System service by imposing such an Enhanced 9-1-1 surcharge; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", be, and is hereby amended by adding a new Article III in Chapter 10 to read as follows:

ARTICLE III
EMERGENCY TELEPHONE SYSTEM FEE

Sec. 10-151. The emergency telephone system fee provided for in IC 36-8-16-5 ("Enhanced 9-1-1 surcharge") is hereby adopted by the City-County Council for and on behalf of Marion County.

Sec. 10-152. Said Enhanced 9-1-1 surcharge in an amount of thirty cents (\$.30) is hereby imposed on each exchange access facility, (as defined in IC 36-8-16-3), used in Marion County.

Sec. 10-153. The amount of this Enhanced 9-1-1 surcharge may be changed by ordinance but no more than once in any calendar year.

Sec. 100-154. This Enhanced 9-1-1 surcharge shall remain uniform and shall not exceed the amount specified in IC 36-8-16-6(b).

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SECTION 2. This ordinance shall take effect on the first day of the second month after the month during which it is adopted and upon compliance with IC 36-3-4-14.

PROPOSAL NO. 272, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 272, 1989, on May 10, 1989. The proposal authorizes the Community Corrections Agency to contract with Hitek Community Control Corp. for the purchaser of a passive system of electronic monitoring devices in conjunction with the Agency's home detention program. By a 5-3 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Holmes, for adoption. Proposal No. 272, 1989, was adopted on the following roll call vote; viz:

21 YEAS: Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Durnil, Giffin, Golc, Hawkins, Holmes, Howard, McGrath, Rhodes, Ruhmkorff, SerVaas, Shaw, Strader, West
6 NAYS: Gilmer, Irvin, Moriarty, Schneider, Solenberg, Williams
2 NOT VOTING: Jones, Mukes-Gaither

Proposal No. 272, 1989, was retitled GENERAL RESOLUTION NO. 5, 1989, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 5, 1989

A GENERAL RESOLUTION authorizing the Marion County Community Corrections Agency ("Agency") to contract with Hitek Community Control Corp. for the purchase of a passive system of electronic monitoring devices in conjunction with the Agency's home detention program.

WHEREAS, the Agency Advisory Board was established pursuant to IC 11-12-2-2 and City-County Special Resolution No. 103, 1981; and

WHEREAS, the Agency has adequate funds for renewal of the contract; and

WHEREAS, any agreement entered into by the Agency to provide electronic surveillance must be approved by the City-County Council; and

WHEREAS, the Agency desires to contract with Hitek Community Control Corp. to purchase a passive electronic monitoring system; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council of Indianapolis and Marion County, as the legislative body of Marion County, hereby approves the contract contemplated by the Marion County Community Corrections Agency to purchase a passive electronic surveillance system for offenders in the Agency's home detention component.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PURCHASE AGREEMENT

Equipment Purchase Agreement, effective the 1st day of July, 1989, ("Agreement") between HITEK COMMUNITY CONTROL CORPORATION, a Florida Corporation, having its place of business at 4021 N.E. Fifth Terrace, Fort Lauderdale, Florida 33334 ("Seller"), a subsidiary of DIGITAL PRODUCTS CORPORATION, and Marion County Community Corrections Agency, 744 City-County Building, Indianapolis, Indiana 46204 ("Purchaser"),

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WHEREAS, Purchaser desires to incorporate as an alternative to incarceration, a method of home incarceration by use of an Electronic Telephone Supervision System;

WHEREAS, Seller is in the business of selling such Electronic Telephone Supervision Systems and has agreed to sell to Purchaser such system on the terms and conditions set forth in this Agreement.

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THEREFORE, in consideration of the mutual premises set forth above and of the mutual promises and conditions set forth below, the parties agree to the following terms and conditions:

WITNESSETH THAT:
TERMS AND CONDITIONS

1. DEFINITIONS. As herein used, the following expressions shall have the following respective meanings:

"On Guard Caller" - A Seller-patented automatic telecomputer with WRISTLET/Verifier interface capabilities; 115/120 volts AC 30 watts maximum; 100 hour battery back-up for phone number storage; standard RJ11C phone plug; RS 232C computer interface with switch selectable band rates; or successor models.

"On Guard Software" - Certain computer software developed and copywritten by Seller, for establishing and maintaining a client data base and automatically operating up to four On Guard Callers, and for use with the Computer (as hereinafter defined).

"Computer" - A computer manufactured by third parties to be used with On Guard Software and to be interfaced with the On Guard Caller, and equipped with a hard disc drive, a floppy disc drive, a memory expansion parallel with serial port, a clock/calendar board, an internal modem and a power strip surge protector box.

"Printer" - A computer printer compatible with the Computer; 115/120 Volts AC 40 watts maximum; which prints out a record of all calls made by the On Guard Caller with time and proper indication of response.

"On Guard Central System" - A collective reference to the On Guard Caller, On Guard Software, Computer and Printer, plus necessary accessories.

"WRISTLET and Verifier Sets" - Patent pending products of the Seller consisting of:

(a) A "WRISTLET" - a particular electronic device, Model CP-2, or successor models, coded to work with a specific companion Verifier (as hereinafter defined), requiring no batteries or AC power connection, is immune from damage caused by shock, vibration, liquids, temperature and other normal work and play environments; patent pending.

(b) A "Verifier" - a particular electronic device, Model IBG-50, or successor models; which is coded to work with a specific companion WRISTLET; connects to standard modular phone jacks and telephones; FCC approved Ringer Equivalence No. O.OA; patent pending.

"On Guard Telecomputer System" - A system of an On Guard Central System coordinated to work with a specified number of WRISTLET and Verifier Sets.

"Equipment" - A reference to any of the above-mentioned items.

"Supervision Program" - A program, established and operated by Purchaser, or a subsidiary thereof, as a Federal, State or local governmental or quasi-governmental organization, as a means of an alternative to incarceration and/or detention for those individuals convicted of minor crimes where prison and/or detention is inappropriate; all Supervision Programs shall have guidelines, established by such governmental, or quasi-governmental organizations, for their operation and those persons to be allowed to be enrolled in such Supervision Program; the Supervision Program shall also have guidelines on establishing the daily routines of those persons enrolled in the Supervision Program.

"Supervised Persons" - Any person enrolled in a Purchaser's Supervision Program.

"Supervisor" - Those employees, officers and/or agents of the Purchaser whose duties include the establishment and operation of any Supervision Program, and/or the supervision of a Supervised Person.

2. EQUIPMENT PURCHASED. Seller agrees to sell and Purchaser agrees to buy from Seller, in accordance with the terms and conditions set forth herein, all of the items described in Schedule A, attached hereto and made a part hereof, or any other schedule or schedules which are from time to time approved in writing by Purchaser and Seller.

3. ACCEPTANCE OF EQUIPMENT. The parties agree that the Equipment shall be deemed "Accepted" by Purchaser after:

(a) Seller has delivered and installed the Equipment;

(b) Purchaser's personnel is trained to Purchaser's satisfaction;

(c) Purchaser has completed within a reasonable period of time and is satisfied with the results of Equipment filed tests.

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Purchaser shall acknowledge its "Acceptance" of the Equipment by submitting to Seller a written notice that all conditions have been satisfactorily completed.

4. **FUNDING.** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by Purchaser are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then Purchaser shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days prior written notice documenting the lack of funding. In such event, unless otherwise agreed to by the parties this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received.

5. **PAYMENTS.** The total purchase price of the Equipment and extended warranty is Ninety-Seven Thousand, Seven Hundred Twenty-Eight Dollars (\$97,728.00) which shall be paid to Seller in a lump sum or in installments as the shipment(s) are "Accepted" pursuant to paragraph Three (3) of this Agreement. Purchaser reserves the right to withhold payment for the Equipment or any part thereof which is not, in Purchaser's opinion, operating satisfactorily and is not cured by Seller within thirty (30) days of receiving from Purchaser written notice of the unsatisfactory operation.

6. **INDEMNIFICATION.** Seller agrees to indemnify and hold harmless Purchaser, its Advisory Board, if any, the City of Indianapolis, Indiana, Marion County, Indiana and their respective officers, officials, agents, employees, licensees, and invitees from and against any and all demands, claims, suits, or judgments, loss, and all costs, expenses (including reasonable attorney fees), liabilities, liens, and damages which arise out of the acts or omissions of Seller, its employees, agents, subcontractors, or representatives or any defect in the materials, workmanship, or supplies purchased under this Agreement.

7. **COPYRIGHT/PATENT INFRINGEMENT.** Seller shall, at its own expense, defend Purchaser against any and all claims or suits which may be brought against the Purchaser or an entity (given Purchaser's and Seller's permission to use the equipment) for the infringement of a United States patent or copyright except in the event Purchaser or entity knowingly misused receipt of trade secrets arising from use of any Equipment purchased, or information prepared or developed in connection with this Purchase Agreement.

The Purchaser will give Seller written notice of any such claim or suit and the appropriate consent, right, and an opportunity to select a defense thereof, together with full information and all reasonable cooperation.

8. **RISK OF LOSS OR DAMAGE.** Seller agrees that it shall bear the risk of loss or damage to the Equipment until such Equipment is delivered to Purchaser and installed at Purchaser's designated location. In the event such loss or damage arises from the acts or omissions of Purchaser, its employees, agents, or affiliates, which acts or omissions are in disregard of the advice, direction, or instruction received from Seller or its representative, Purchaser agrees to bear the loss or damage.

9. **OWNERSHIP OF EQUIPMENT.** Upon Acceptance of the Equipment and payment therefore, Purchaser shall be the owner of such Equipment, the patent(s) and copyright(s) remaining in the name of Seller.

10. **WARRANTY AND MAINTENANCE**

(a) **General Warranty** - Seller warrants to Purchaser that should the Equipment be determined to be defective in material or workmanship within three (3) years from acceptance of the On Guard Central System and within three (3) years from acceptance of the Wristlet and Verifier Sets, such defects will be repaired or the Equipment will be replaced (replacement or repair to be determined by Seller) without charge for parts or labor. This warranty covers normal use but does not cover damage or failure which occurs during shipment or which results from alterations, accident, abuse, misuse, neglect, improper maintenance or movement from Seller's original placement during installation, unless such failure results from the acts of Seller, Seller's employees, agents, representatives or subcontractors.

To obtain service pursuant to this warranty, Purchaser shall contact Seller's Customer Service Department at 1-800-327-9476 and request a Material Return Authorization Form. Purchaser shall submit to Seller the completed form with the non-working Equipment. Purchaser will pay for the shipment to Seller for repair and Seller will pay for the shipment back to Purchaser after repair. In the event circumstances require and both parties can agree, Seller will perform on-site repair.

Repairs made which are not covered under the warranty will be performed at the prevailing service industry rates. Seller agrees to contact and inform Purchaser of estimated cost of repair and receive authorization to repair from Purchaser before making any repairs.

11. **ON GUARD SOFTWARE LICENSE.** Seller grants Purchaser an unlimited license to use with the Equipment purchased hereunder the On Guard Software except that Purchaser may not make copies of the Software and may use it only on the purchased On Guard Central System or its replacement. Accordingly, Purchaser must license a separate Software copy for each On Guard Central System where Purchaser desires to use the Software. Seller agrees

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to maintain a copy of the Software and a method by which it can replace problem Software upon notice from Purchaser. Unauthorized use of the Software may result in civil damages or criminal penalties.

The Software is licensed with a one year limited warranty (warranties after the first year shall run with the warranty maintained on the On Guard Central System) under the same terms and conditions as the General Warranty described in Paragraph 10 above.

12. INSURANCE.

(a) Seller shall as a prerequisite to entering this Agreement acquire and thereafter maintain such insurance coverage as outlined below to protect it from any claims which may arise out of or result from Seller's acts or omissions under this Agreement whether such acts or omissions are made by Seller or by anyone directly or indirectly employed by Seller.

(i) Workmen's compensation and disability as required by Indiana statute.

(ii) Employer's liability as required by Indiana statute.

(iii) Comprehensive general liability as follows:

- * Bodily injury coverage in the amount of 300,000 each occurrence/1,000,000 aggregate.
- * Property damage coverage in the amount of 50,000 each occurrence/1,000,000 aggregate.

Certificates of insurance naming the City of Indianapolis/Marion County and Community Corrections Agency as an "Additional Insured" and showing such coverage as being in force shall be filed with the City/County Central Purchasing Division of Indianapolis, Indiana prior to execution of this Agreement.

13. UPGRADES. During the initial warranty term and any extended warranties of any system components, software enhancements and improvements shall be made available to Purchaser at no charge.

14. INSTALLATION AND TRAINING. Immediately following the Commencement Date or upon delivery of the first On Guard Central System, whichever shall first occur, Seller shall provide personnel to aid in the installation of the On Guard Central System. At such time, Seller will conduct one (1) training session for Purchaser's Supervisors to acquaint such Supervisors in the proper use and operation of all of the Equipment subject to this Agreement. The installation and training session will be conducted at the office of Purchaser, Room 744, City-County Building, Indianapolis, Indiana 46204.

15. TELEPHONE EQUIPMENT AND ACCESSORIES.

(a) Purchaser agrees to provide a separate telephone line, with a standard RJ11C Modular Jack and adequate adjacent AC power for each On Guard Central System. Purchaser agrees and acknowledges that a telephone line to the location of each Supervised Person is required. In all cases, Purchaser is responsible for all telephone charges, electrical line installation and electricity charges.

(b) Cards, tapes, disks, computer printout paper and/or other input/output and storage media used to operate the Equipment are Purchaser's responsibility and, if and when used, must be compatible with the Equipment.

16. ACCEPTANCE OF EQUIPMENT. Purchaser shall immediately inspect each piece of Equipment delivered pursuant to this Agreement, and shall notify Seller in writing of any discrepancies between said pieces of Equipment and the description and statement of condition. If Seller received no such written notice within fifteen (15) days after delivery of such Equipment, Purchaser will be presumed to have accepted the Equipment as specified in the attached schedule or schedules. Notwithstanding the foregoing, for any such discrepancies or defects which are not apparent except when the Equipment is in use Purchaser shall have fifteen (15) days from the discovery of the discrepancy or defect to notify Seller thereof and to reject the non-conforming Equipment.

17. MISCELLANEOUS.

(a) Purchaser's specifications for this Agreement, not including those to which Seller took exception, are attached hereto as Exhibit B and are incorporated as part of this Agreement as if fully set forth herein.

(b) Any and all notices which can or may be given hereunder shall be in writing and sent by Certified or Registered Mail, Return Receipt Requested, or by personal delivery, by either party to the other at their addresses set forth herein, or to such other addresses as they shall notify one another of; provided, however, that notice by ordinary mail shall be deemed sufficient hereunder provided that the party to whom such notice shall have been sent shall acknowledge in writing the receipt of same.

(c) This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof, and all prior understandings, negotiations and agreements are merged herein.

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(d) This Agreement shall not be changed, altered, modified, cancelled or terminated (except as herein specifically provided) except in writing and signed by the parties hereto.

(e) This Agreement shall be binding upon the parties and their assigns and shall insure to the benefit of their respective successors and assigns.

(f) This Equipment Purchase Agreement shall be governed by and interpreted under the laws of the State of Indiana.

18. DEFAULT.

(a) For the purposes of this Equipment Purchase Agreement, Purchaser may invoke the remedies set forth in paragraph nineteen (19) upon the occurrence of one or more of the following events of default:

(i) Seller's failure to perform consistent with the terms and conditions of this Agreement;

(ii) Seller's failure to provide promptly to Purchaser notice of any lawsuit, claim or threat of such concerning the Equipment purchased hereunder;

(iii) The adjudication of Seller as bankrupt before all the terms of this Equipment Purchase Agreement have been completely fulfilled;

(iv) The appointment of a receiver for the Seller's business and assets which appointment occurred before all the terms of this Equipment Purchase Agreement have been completely fulfilled;

(v) Seller's making an assignment for the benefit of its Creditors;

(vi) Seller's failure to notify Purchaser within twenty-four (24) hours of discovering that the Equipment purchased hereunder will not perform as described in Paragraph 1;

(vii) Seller's failure to promptly reimburse Purchaser the amount paid to Seller for Equipment which is discovered to have an incurable defect or a defect which cannot be cured in the time or manner acceptable to Purchaser;

(b) For the purposes of this Equipment Purchase Agreement, Seller may invoke the remedies set forth in paragraph nineteen (19) upon the occurrence of one or more of the following events of default:

(i) Purchaser's failure to perform consistent with the terms and conditions of this Agreement;

(ii) Purchaser's failure to notify Seller within five (5) days of discovering of any Equipment defect of which Purchaser has knowledge and consequently Seller cannot cure the defect within the time prescribed herein;

(iii) Purchaser's failure to notify Seller within seventy-two (72) hours of receipt from a third party of any copyright or patent infringement claim;

(iv) Purchaser's failure to pay Seller for services performed within thirty (30) days from "Acceptance" of the Equipment;

(v) Purchaser's wanton and willful disregard of Seller's reasonable instructions from which results defective or inoperative equipment.

19. RESCISSION/CANCELLATION.

(a) **BUYER'S RIGHTS.** Upon one or more event of default as defined in Paragraph eighteen (18) herein, the Purchaser may rescind this Agreement and retain any monies due to Seller for past services rendered; and

(i) demand/collect reimbursement for all sums paid to Seller and collection fees including reasonable attorney fees and return at Seller's expense all Equipment in Purchaser's possession; or

(ii) retain the Equipment in its possession or require Seller to repossess it at Seller's expense.

(b) **SELLER'S RIGHTS.** Upon one or more event of default as defined in Paragraph eighteen (18) herein, the Seller may rescind this Agreement and

(i) collect from the Purchaser any monies due and owing for services performed and collection fees including reasonable attorney fees, or

(ii) repossess the Equipment in Purchaser's possession.

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20. INDEPENDENT CONTRACTOR STATUS. Seller is an independent contractor and in no way an employee of Purchaser.

21. DISCRIMINATION. Seller agrees that it will not discriminate against any employee or subcontractor or applicant for employment or subcontract work to be employed in the performance of this Equipment Purchase Agreement with respect to hire, tenure, terms, conditions or privileges of employment because of race, religion, color, age, sex, handicap, national origin, and ancestry, disabled veteran status or Vietnam era veteran status.

22. SUBLEASE. No portion of this Agreement shall be subleased, assigned or otherwise disposed of by either party except with the prior written consent of the other party being first obtained.

23. AMENDMENTS. This Agreement may be amended or modified, in whole or in part only by a written instrument signed by each of the parties hereto.

24. INTEGRATION. This Agreement represents the entire integrated Agreement between Purchaser and Seller and supersedes all prior negotiations, representations, and agreements, written or oral.

25. HEADINGS. The headings of the several paragraphs contained herein are for convenience only and do not define or limit the contents of such paragraphs.

26. VOID. In the event any provision of this Agreement is held to be invalid, void, or illegal such provisions shall be stricken and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.

27. REMEDIES. Failure, delay or inaction by either party in the exercise or pursuit of its rights and remedies provided hereunder or by law shall not operate as a waiver of any such rights or remedies.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

MARION COUNTY COMMUNITY CORRECTIONS

HITECK COMMUNITY CONTROL CORPORATION

By: _____
(Name)

By: _____
(Name)

(Title)

(Title/Authority)

APPROVED AS TO FORM AND LEGALITY:

By: _____
Kristie L. Hill
Corporation Counsel

Marion County:

William H. Hudnut, III
Mayor of Indianapolis

Curtis L. Coonrod
Auditor of Marion County

SCHEDULE A

Hitek Community Control Corp. agrees to supply, under the terms and conditions of Purchase Agreement, the following:

1. 115 wristlets/verifiers/6 straps per unit (already in use by Purchaser) at \$608.00/unit (\$69,920) - includes one year original warranty
2. 1 central system (already in use by Purchaser) \$14,800 - includes one year original warranty
3. Additional straps for units - \$300.00
4. Extended warranty on the 115 wristlet/verifier units and the central system - 2 years - 12,708.00 (includes 6 straps per unit per year)

TOTAL \$97,728.00

PROPOSAL NO. 280, 1989. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 280, 1989, on May 10, 1989. The proposal appropriates \$1,100 for the Community Corrections Agency to reimburse a Pre-Trial Home Detention Officer for mileage through July 31, 1989. By a 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Curry, for adoption. Proposal No. 280, 1989, was adopted on the following roll call vote; viz:

26 YEAS: *Borst, Brooks, Clark, Cottingham, Coughenour, Curry, Dowden, Dumil, Giffin, Gilmer, Golc, Hawkins, Holmes, Howard, Irvin, Jones, McGrath, Moriarty, Rhodes, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, Strader, West*
0 NAYS
3 NOT VOTING: *Boyd, Mukes-Gaither, Williams*

Proposal No. 280, 1989, was retitled FISCAL ORDINANCE NO. 59, 1989, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 59, 1989

A FISCAL ORDINANCE amending the City-County Annual Budget for 1989 (City-County Fiscal Ordinance No. 93, 1988) transferring and appropriating an additional One Thousand One Hundred Dollars (\$1,100) in the County Corrections Fund for purposes of the Marion County Community Corrections Agency and reducing certain other appropriations for that Agency.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (aaa) of the City-County Annual Budget for 1989, be and is hereby amended by the increases and reductions hereinafter stated for purposes of Marion County Community Corrections to reimburse a Pre-Trial Home Detention Officer for mileage through July 31, 1989.

SECTION 2. The sum of One Thousand One Hundred Dollars (\$1,100) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

MARION COUNTY COMMUNITY CORRECTIONS AGENCY	COUNTY CORRECTIONS FUND
3. Other Services & Charges	\$1,100
TOTAL INCREASE	\$1,100

SECTION 4. The said increased appropriation is funded by the following reductions:

MARION COUNTY COMMUNITY CORRECTIONS AGENCY	COUNTY CORRECTIONS FUND
1. Personal Services	\$1,100
TOTAL REDUCTION	\$1,100

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 281, 1989. Councillor Coughenour reported that the Public Works Committee heard Proposal No. 281, 1989, on May 18, 1989. The proposal amends the Code, Section 27-110, Exceptions, to expand automatic lawn watering adjustment to two additional months. By a 4-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Coughenour moved, seconded by Councillor Cottingham, for adoption. Proposal No. 281, 1989, was adopted on the following roll call vote; viz:

May 22, 1989

26 YEAS: Borst, Boyd, Brooks, Clark, Cottingham, Coughenour, Curry, Dumil, Giffin, Gilmer, Golc, Hawkins, Holmes, Howard, Jones, McGrath, Moriarty, Rhodes, Ruhmkorff, Schneider, SerVaas, Shaw, Solenberg, Strader, West, Williams

1 NAY: Irvin

2 NOT VOTING: Dowden, Mukes-Gaither

Proposal No. 281, 1989, was retitled GENERAL ORDINANCE NO. 45, 1989, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 45, 1989

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Section 27-110, Exceptions, to expand automatic lawn watering adjustment to two additional months.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Section 27-110, Exceptions, be, and the same is hereby amended by deleting the language stricken through and adding the language underscored below:

Sec. 27-110. Exceptions.

(a) In the case of one-, two- or multi-family residences the billing for sewage service for the months of May, June, July, and August and September shall be based upon the water used or delivered for the previous months of March and April. In the event the water used for said previous months of March and April is greater than the water used for said months of May, June, July, and August and September then the billing for sewage service shall be computed on the actual water used in the month for which the sewage service bill is being rendered.

(b) Where a metered water supply is used for fire protection as well as for other uses, the director may, at his/her discretion make adjustments in the sewer user charge as may be equitable. In such cases the burden of proof as to the type of water usage shall be upon the user.

(c) Where a metered water supply is used for fire protection only, the sewer user charge shall not apply.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 285, 1989. Councillor Cottingham reported that the County and Townships Committee heard Proposal No. 285, 1989, on May 9, 1989. The proposal authorizes township assessors to devise a uniform plan for property reassessment. By a 5-0 vote, the Committee recommended striking the proposal. Councillor Cottingham said due to the fact that the sponsor did not receive notification of the County and Townships Committee meeting, he would like consent to send Proposal No. 285, 1989, back to Committee. Proposal No. 285, 1989, was returned to Committee by unanimous voice vote.

NEW BUSINESS

ANNOUNCEMENTS AND ADJOURNMENT

Robert Elrod, General Counsel, read the following:

Mr. President:

This Council will hold a public hearing on Rezoning Petition 89-Z-93, Council Proposal No. 306, 1989, at its next regular meeting on June 5, 1989, such meeting to convene at 7:00 p.m. in these Council Chambers in the City-County Building in Indianapolis. This petition proposes to rezone 4.1 acres at 2411 North Illinois Street from C-S/RC to SU-37/RC to provide for a library service center.

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Written objections that are filed with the Clerk of the Council or the County Auditor shall be heard at such time, or the hearing may be continued from time to time as found necessary by the Council.

Councillor West announced that Councillor Rhodes has been elected President of the East Central District of the Association of Indiana Counties.


There being no further business, upon motion duly made and seconded, the meeting adjourned at 8:55 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-County Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 22nd day of May, 1989.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.


President

ATTEST:


Clerk of the Council

(SEAL)