

Monday

November 3, 2003

Monday

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WHEREAS, certain extraordinary emergencies have developed since the adoption of the existing annual budget, so that it is now necessary to appropriate more money than was appropriated in the annual budget. **NOW THEREFORE**, to meet such extraordinary emergencies:

Sec.1. BE IT ORDAINED (RESOLVED) by the County Council of DeKalb County, Indiana, that for the expense of said municipal corporation the following sums of money are hereby herein specified, subject to laws governing the same:

	AMOUNT REQUESTED	AMOUNT APPROVED	VOTE AYE	NAY
<u>ADDITIONALS</u>				
<u>COUNTY GENERAL (0100)</u>				
<u>Drainage Board (15)</u>				
Postage (3322) <i>DVW/Rm. Approved 12/15/03</i>	\$ 1,500.00	<u>1500.00</u>	<u>6</u>	<u>0</u>
<u>Circuit Court (25)</u> <i>BS/BS Approved 12/15/03</i>				
Uniforms (2220)	\$ 1.00	<u>1.00</u>	<u>6</u>	<u>0</u>
<u>HIGHWAY (0200)</u>				
Petroleum Products & Supplies (76.2221) <i>Rm/DVW Approved 12/15/03</i>	\$ 14,000.00	<u>14,000</u>	<u>6</u>	<u>0</u>
<u>AIRPORT CAPITAL IMPROVEMENTS (0610)</u>				
Capital Outlay (4421) <i>JS/BS</i>	\$ 59,188.46	<u>59,188.46</u>	<u>6</u>	<u>0</u>
<u>COUNTY CORRECTIONS FUND (0936)</u>				
Non-Budgeted Expenditures (99.5000) <i>KC/Rm</i>	\$ 8,677.00	<u>8677.00</u>	<u>6</u>	<u>0</u>
<u>TRANSFERS</u>				
<u>COUNTY GENERAL (0100)</u>				
<u>Prosecutor (8)</u>				
From: Transcripts (3312) To: Legal Reference Materials (2241) <i>KC/JS</i>	\$ 500.00	<u>500.00</u>	<u>6</u>	<u>0</u>

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Plan Commission (13)From: Employee Wages
(1114)

To: Legal Fees (3282) \$ 1,000.00

1,000.006 0From: Furniture & Fixtures
(4441)

To: Legal Fees (3282) \$ 600.00

600.006 0

From: Other Pay (1080)

To: Legal Fees (3282) \$ 1,750.00

1,750.006 0

From: Office Supplies (2211)

To: Consultant Fees (3282) \$ 250.00

250.006 0From: Legal Reference
Materials (2241)

To: Consultant Fees (3282) \$ 30.00

30.006 0Board Of Zoning Appeals (14)

From: Office Supplies (2211)

To: Other Pay (1080) \$ 150.00

150.006 0From: Printing Services
(2212)

To: Other Pay (1080) \$ 120.00

120.006 0Commissioners (19)

From: PERF (1210)

To: Personal Service Fees
(1055) \$ 10,000.0010,000.006 0

From: PERF (1210)

To: Insurance (1220) \$ 60,000.00

60,000.006 0Sunny Meadows (24)From: Farm Equipment
(4446)To: Equipment Repair -
Farm (3378) \$ 7,600.007,600.006 0Circuit Court (25)From: Training & Education
(3430)

To: Uniforms (2220) \$ 360.00

360.006 0Building Inspector (38)

From: Part Time (1075)

To: Other Pay (1080) \$ 900.00

900.006 0

From: Fees (1055)

To: Other Pay (1080) \$ 500.00

500.006 0From: Equipment Repair
(3362)

To: Other Pay (1080) \$ 300.00

300.006 0

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Highway (0200)

From: Part Time (74.1075)

To: Employee Wages
(73.1114) *Sm/KC*

\$ 6,000.00

6000.00

6 0

ADOPTED THIS 3RD DAY OF NOVEMBER, 2003

NAY

AYE

Robert Williams
Donald E. Van Way
James Ordway
Larry Moughlin
Ben Smiley
Keith A. Crow

ATTEST:

Sharon G. Hayes

Sharon G. Hayes
Secretary of Appropriating Body

COUNCIL MINUTES - NOVEMBER 3, 2003

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MATTER OF MINUTES

A motion by Don Van Wye to approve the minutes of October 6th as corrected in the matter of tax abatement was seconded by Janet Ordway and carried.

MATTER OF ADDITIONAL APPROPRIATION - SHERIFF

Sheriff John Dennis distributed copies of the jail inspection report. There were a few minor problems listed for which the sheriff was not overly concerned. Of greater concern was the count of 91 inmates for breakfast. The count for meals has been in the high eighties since the first of October. The sheriff requested an emergency appropriation in the amount of \$6,800 from the County Corrections Fund to pay for meals for the remainder of the year as well as \$2,155.95 janitorial and laundry supplies. A motion by Keith Crow to declare an emergency and approve an additional appropriation was seconded by Larry Moughler and carried.

Sheriff Dennis also announced that the sheriff's retirement fund has a new trustee. Peoples Federal Bank of Auburn will partner with First Federal of Huntington until the total change is made, at which time Peoples Federal will become the trustee. Documents for the change were presented to the county attorney for examination prior to being signed by the council.

MATTER OF ADDITIONAL APPROPRIATION-DRAINAGE BOARD

A motion by Don VanWye to approve the additional appropriation of \$1,500 for postage for the Drainage Board was seconded by Larry Moughler and carried. Maintenance plans for the Frank Yarde Drain containing some 4,000 parcels required an extremely large mailing for the hearing.

MATTER OF R & D CONCRETE – ORDINANCE 2003-12

Attorney Dan Brinkerhoff of the County Economic Development Commission addressed the council requesting the adoption of an ordinance for R & D Concrete, Inc.

A motion by Keith Crow to reopen the discussion regarding R & D Concrete, which had been tabled at the last meeting was seconded by Ben Smaltz and carried. Council members agreed that each had time to read and understand the agreement since the motion for adoption at the previous meeting. The motion to accept Ordinance 2003-12, which will allow R & D Concrete to borrow \$6,400,000 at a lower interest rate as would be allowed the county was carried unanimously.

SPECIAL ORDINANCE NO. 2003-12

ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE BY THE COUNTY OF DEKALB, INDIANA OF ITS VARIABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2003 (R & D CONCRETE PROJECT) FOR THE PURPOSE OF FINANCING THE ACQUISITION OF LAND, THE CONSTRUCTION AND EQUIPPING OF A SINGLE STORY 38,250 SQUARE FOOT FACILITY FOR CONCRETE BLOCK MANUFACTURING AND THE CONSTRUCTION AND EQUIPPING OF A SINGLE STORY 21,600 SQUARE FOOT BAGGING FACILITY FOR DECORATIVE ROCK AND SOIL PRODUCTS; AUTHORIZING THE

**EXECUTION, DELIVERY AND PERFORMANCE OF A LOAN AGREEMENT,
A TRUST INDENTURE AND RELATED DOCUMENTS WITH RESPECT TO
SAID BONDS; AND APPROVING AND AUTHORIZING OTHER ACTIONS IN
RESPECT THERETO**

WHEREAS, the County of DeKalb, Indiana (the "Issuer") is authorized and empowered by the Indiana Code §36-7-11.9 and 12 (the "Act"), as supplemented and amended, to finance land, buildings or other improvements suitable for industrial, commercial or manufacturing enterprises for the purposes set forth in the Act; and

WHEREAS, the DeKalb County Economic Development Commission has rendered its Project Report for the R & D Concrete Project, as hereinafter defined, regarding the financing of proposed economic development facilities for R & D Concrete Products of Indiana, Inc., an Indiana corporation (the "Company"), and said Project Report has been sent to the DeKalb County Plan Commission for comment; and

WHEREAS, the DeKalb County Economic Development Commission conducted a public hearing and adopted a resolution on October 6, 2003, which Resolution has been transmitted to this Council, finding that the financing of certain economic development facilities of the Company complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of DeKalb County and its citizens; and

WHEREAS, the DeKalb County Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Council the Loan Agreement, the Series 2003 Note, Trust Indenture (the "Indenture"), Official Statement and Bond Purchase Agreement; now therefore

BE IT ORDAINED BY THE DEKALB COUNTY COUNCIL THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the DeKalb County Economic Development Commission and presented to this Council, the issuance and sale of the Issuer's Economic Development Revenue Bonds, Series 2003 (R & D Concrete Project) (the "Bonds"), the loan of the proceeds of the Bonds to the Company for the construction and equipping of the economic development facilities, the payment of the Bonds by the note payments of the Company under the Loan Agreement and the Series 2003 Note, and the securing of said Bonds under the Indenture complies with the purposes and provisions of the Act and will be of benefit to the health and welfare of DeKalb County and its citizens.

SECTION 2. The economic development facilities will consist of acquiring 113 acres of real estate located ½ mile west of Interstate 69 on the north side of US 6 between CR 27 and Interstate 69, and commonly known as 2397 County Road 27, Waterloo, Indiana 46793, in DeKalb County, Indiana, the construction and equipping of a single story 38,250 square foot facility for concrete block manufacturing, and the construction and equipping of a single story 21,600 square foot bagging facility for decorative rock and soil products (the "Project").

SECTION 3. At the public hearing held by the DeKalb County Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in DeKalb County, and subsequently found, based on special findings of fact set forth in the Resolution transmitted hereto that the facilities would not have an adverse competitive effect. This Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in DeKalb County and the facilities will be of benefit to the health and welfare of the citizens of DeKalb County.

SECTION 4. The substantially final forms of the Loan Agreement, Series 2003 Note, Indenture, Official Statement and Bond Purchase Agreement approved by the DeKalb County Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in the Act), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of this Council and kept on file by the Auditor. Two (2) copies of the Financing Agreement are on file in the office of the Auditor for public inspection.

SECTION 5. The Issuer shall issue its Bonds designated "County of DeKalb, Indiana Variable Rate Demand Economic Development Revenue Bonds, Series 2003 (R & D Concrete Project)" in a principal amount not to exceed Six Million Four Hundred Thousand and 00/100ths Dollars (\$6,400,000.00) (the "Series 2003 Bonds") and maturing no later than October 1, 2013. The Series 2003 Bonds are to be issued for the purpose of procuring funds to pay the costs of construction and equipping of economic development facilities as more particularly set out in the Indenture and the Loan Agreement incorporated herein by reference, which Series 2003 Bonds will be payable as to principal, premium, if any, and interest from the note payments made by the Company under the Loan Agreement and the Series 2003 Note or as otherwise provided in the above described Indenture. The Series 2003 Bonds shall be issued in fully registered form in denominations of \$100,000 or \$5,000 integral multiples in excess thereof or as otherwise provided in the Indenture. The Series 2003 Bonds shall be redeemable as provided in Article IV of the Indenture. The Series 2003 Bonds will bear interest initially at a variable rate determined weekly as provided in the above described Indenture. Payments of principal and interest are payable in lawful money of the United States of America at the principal office of the Trustee (as defined in the Indenture) or its successor in trust or by check mailed or delivered to the registered owners as provided in the Indenture. The Series 2003 Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of DeKalb County, Indiana, nor are the Series 2003 Bonds payable in any manner from revenues raised by taxation.

SECTION 6. The Board of Commissioners and the Auditor are authorized and directed to sell the Series 2003 Bonds to NatCity Investments, Inc. or its assigns, as the original purchaser thereof at a price of not less than 99.3% of the principal amount thereof. In addition, NatCity Investments, Inc. shall be reimbursed from Series 2003 Bond proceeds for its reasonably incurred out-of-pocket expenses.

SECTION 7. The Board of Commissioners and the Auditor are authorized and directed to execute, attest, affix or imprint by any means the County seal to the documents constituting the Financing Agreement approved herein on behalf of the County and any other document which may be necessary or desirable prior to, on or after the date hereof, to consummate or facilitate the transaction, including, without limitation, the Series 2003 Bonds authorized herein. The Board of Commissioners and the Auditor are hereby expressly authorized to deem the Official Statement relating to issuance of the Series 2003 Bonds as final and the distribution of the deemed final Official Statement is hereby approved. The Board of Commissioners and the Auditor are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of counsel to the County, it being the express understanding of this Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the Series 2003 Bonds as approved by this Council by this Ordinance without further consideration by this Council. The signatures of the Commissioners and the Auditor on the Series 2003 Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Series 2003 Bonds to the Trustee named in the Indenture, and payment for the Series 2003 Bonds will be made to the Trustee named in the Indenture and after such payment, the Series 2003 Bonds will be delivered by the Trustee to the purchasers thereof or to a depository for the benefit of the purchasers thereof. The Series 2003 Bonds shall be originally dated the date of issuance and delivery thereof.

SECTION 8. It is the intention of this Council that this Ordinance shall constitute the approval of this Council under Section 147(f) of the Internal Revenue Code of 1986, as amended, with respect to the Series 2003 Bonds.

SECTION 9. The provisions of this Ordinance and the Indenture securing the Series 2003 Bonds shall constitute a contract binding between the County of DeKalb, Indiana and the holders of the Series 2003 Bonds, and after the issuance of said Series 2003 Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said Series 2003 Bonds or the interest thereon remains unpaid.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Board of Commissioners.

Robert Wilder
Councilmember
David Yarde
Councilmember
Donald E. VanWye
Councilmember
Janet Ordway
Councilmember
Larry Moughler
Councilmember
Benjamin C. Smaltz
Councilmember
Keith A. Crow
Councilmember

ATTEST:
Sharon G. Hayes
Auditor

APPROVED AS TO FORM AND LEGALITY
Derald Kruse
Derald Kruse, County Council Attorney
313518

MATTER OF CIRCUIT COURT – ADDITIONAL APPROPRIATION

Judge Kirk Carpenter was recently appointed to fill the vacancy left by Judge Paul Cherry when he received his appointment as magistrate. There was no account in the circuit court budget for a new robe for Judge Carpenter. A motion by Ben Smaltz to establish a line item of \$1 for the uniforms account and transfer \$360 from the training and education account to purchase the robe was seconded by Janet Ordway and carried.

MATTER OF HIGHWAY - ADDITIONAL APPROPRIATION

A motion by Larry Moughler to approve the request of Highway Superintendent Eric Patton for \$14,000 for petroleum products was seconded by Don VanWye and carried.

MATTER OF ADDITIONAL APPROPRIATION – AVIATION CAPITAL PROJECTS

A motion by Janet Ordway to approve the request for \$59,188.46 within the airport capital projects fund was seconded by Ben Smaltz and carried. This money is from the Indiana Department of Transportation and is being used to purchase property for airport expansion.

MATTER OF TRANSFERS

A motion by Keith Crow to approve all remaining transfers with the exception of the highway department and the circuit court transfer approved with the related additional appropriation was seconded by Janet Ordway and carried. The Highway transfer was to be addressed as soon as Supervisor Patton could be reached for an explanation of his request.

MATTER OF AMMEDED HAVA RESOLUTION 2003-R23

A motion by Janet Ordway to adopt Resolution 2003-R23 was seconded by Don VanWye was and carried.

DEKALB COUNTY COUNCIL
DEKALB COUNTY COMMISSIONERS
AMENDED RESOLUTION NUMBER 2003-R23
COUNTY DEKALB COUNTY CODE SECTION 4-4-2-1-1

Whereas, the United States of America federal government has passed the Help America Vote Act of 2002 designed to improve accessibility at voting places during elections by replacing or upgrading voting equipment and Indiana has adopted legislation to implement that federal law;

Whereas, reimbursement funding is available from the Indiana Election Commission for purchase of computer equipment, hardware, peripheral equipment or other products in order to comply with the Help America Vote of 2002 with the adoption of the following resolution;

NOW, THEREFORE, BE IT RESOLVED AND CERTIFIED BY THE DEKALB COUNTY BOARD OF COMMISSIONERS AND THE DEKALB COUNTY COUNCIL THAT:

SECTION 1. 'Subject to the availability of Title III requirement monies to DeKalb County under the Help America Vote Act of 2002 (HAVA) no later than October 1, 2004, DeKalb County will make all permanent and temporary improvements to each polling place not later than October 1, 2004 to comply with the polling place accessibility standards set forth in Indiana Code 3-11-8, and to the extent possible, make any additional improvements identified in the May 2004 HAVA polling place survey that are not specifically required by state or federal law.

SECTION 2. DeKalb County will submit a report to the Indiana Election Division no later than December 31, 2004, or no later than December 31, 2005 for reimbursement approved after 2003. The report under this SECTION must list the polling place accessibility problems identified in the May 2004 survey of polling places and indicate whether these problems have been resolved by temporary or permanent improvements, or whether the polling place has been relocated to an accessible facility. If the report indicates that the problems have not yet been resolved, the report must indicate how DeKalb County will resolve the problem no later than March 31, 2006. DeKalb County agrees to submit any additional reports required by the Indiana Election Division until DeKalb County reports that the polling place accessibility requirements identified in the May 2004 survey have been resolved. The report must be certified as accurate by majority vote of DeKalb County election board, following review and opportunity for written comments to be added to the report by the local advisory council described in SECTION 5 of this Resolution.

SECTION 3. DeKalb County acknowledges that the Secretary of State and Co-Directors of the Indiana Election Division may extend the October 1, 2004 deadline until March 31, 2006, for a specific polling place, if it is impossible or impractical for DeKalb County to ensure the polling place's compliance by October 1, 2004.

SECTION 4. As of December 31, 2005, each polling place will contain at least one (1) voting system to permit a voter who is blind or visually impaired to vote privately and independently.

SECTION 5. No later than December 31, 2003, the DeKalb County Commissioners will adopt an ordinance to establish a local advisory council comprised of representatives of the disabilities community and elderly voters to provide assistance to DeKalb County in choosing polling places. The council may include any number of members, but must include at least two (2) representatives of the disabilities communities or elderly voters. The DeKalb County Commissioners shall appoint the members and shall encourage county residents with a variety of backgrounds, partisan affiliations, and perspectives to participate. If county residents are not available to serve on the council, the DeKalb County Commissioners may partner with the Governor's Planning Council on Disabilities to carry out the functions of the council.

SECTION 6. The DeKalb County Council pledges that Section 101 AND Title III HAVA monies received by DeKalb County will be used to pay any outstanding obligations incurred by DeKalb County for the voting system purchase subject to the reimbursement.

SECTION 7. The DeKalb County Council pledges that if the obligations incurred by DeKalb County to obtain this voting system have been paid in full or in part as of this date that the remaining Section 101 and Title III reimbursement funds will be used to improve the administration of elections for federal office in DeKalb County.

SECTION 8. The DeKalb County Auditor will immediately establish a new separate non-reverting bank account in which two separate accounting funds are established, one fund where Section 101 reimbursement funds will be deposited and one fund where Title III reimbursement funds will be deposited.

SECTION 9. DeKalb County agrees to refund to the State of Indiana no later than May 1, 2006 an amount equal to the Section 101 and Title III reimbursement funds received by DeKalb County if the Secretary of State of Indiana and the Co-Directors of the Indiana Election Division reasonably determine on March 1, 2006 that DeKalb County has not (1) replaced the lever voting machines (or punch card voting systems) in each precinct of DeKalb County no later than December 31, 2005; or (2) honored one or more of the certifications made by DeKalb County in this Resolution regarding polling place accessibility or the permitted uses of these funds.

BE IT FURTHER RESOLVED that this DeKalb County Amended Resolution Number 2003-R23 be adopted on this 3rd day of November, 2003, and be permanently spread of record in the DeKalb County Code as Section 4-4-2-1-1 pursuant to the Help America Vote Act of 2002 and the Indiana Election Commission of the Indiana Secretary of State's Office in Indianapolis, Indiana.

DEKALB COUNTY COUNCIL:

By: Robert Wilder
Robert Wilder, President
By: David Yarde
David Yarde
By: Janet Ordway
Janet Ordway
By: Donald E. VanWye
Donald E. VanWye
By: Larry Moughler
Larry Moughler
By: Benjamin C. Smaltz
Benjamin C. Smaltz
By: Keith A. Crow
Keith A. Crow

DEKALB COUNTY COMMISSIONERS: BY: Don Kaufman
 Don Kaufman, President
 BY: Connie R. Miles
 Connie Miles, Vice President
 BY: William C. Ort
 William C. Ort, Member

Attested By:
Sharon G. Hayes
 Sharon Hayes, Auditor of DeKalb County, Indiana

MATTER OF TRANSFER - HIGHWAY PROJECT INSPECTOR

A motion by Larry Moughler to approve the request to transfer \$6,000 from part time to the employee wages account was seconded by Keith Crow and carried. This is necessary to cover the remaining wages for the inspector for three separate projects aided by federal funds, the new Spencerville Bridge, the Spencerville Covered Bridge and Auburn Drive.

MATTER OF SHERIFF'S RETIREMENT TRUST AGREEMENT

A motion by Ben Smaltz to approve and authorize President Wilder to sign the Supplementary Trust Agreement for the DeKalb County Police Retirement Plan based on the advise of the county attorney was seconded by Larry Moughler and carried. A motion by Don Van Wye to approve and authorize President Wilder to sign the Trust Agreement and the Benefit Plan was seconded by Ben Smaltz and carried.

MATTER OF TAX RATE ADJUSTMENT

Following an unusual and lengthy reassessment, the auditor has submitted assessed values and received tax rates for 2003. The rates for the Cumulative Bridge fund are set by county resolution. The original bridge rate at 15 cents per hundred dollars of assessed value was lowered to 5 cents per hundred dollars of assessed value in 2001 as assessed values tripled to bring them closer to market value to help the taxpayers better understand and accept the coming reassessment. As a result of the 2003 market value evaluation, the cumulative bridge fund would collect too much money at the current rate. Since this fund is within the maximum levy it was taking about \$319,000 away from the general fund. Auditor Hayes recommended that the bridge rate be reduced and the general fund rate be amended to allow for a better cash flow for the general fund. After due consideration a motion by Janet Ordway to request that the Department of Local Government Finance (DLGF) adjust the rates to lower the bridge rate and raise the general fund rate enough to return the \$319,000 to the general fund was seconded by Ben Smaltz and carried. The auditor will make this request.

MATTER OF ADJOURNMENT

A motion by Keith Crow to adjourn the meeting was seconded by Ben Smaltz and carried. Following the meeting, the council members attended a guided tour of the SDI facility.