

AGENDA RESERVATION REQUEST

**CITY OF FRANKLIN
BOARD OF PUBLIC WORKS AND SAFETY**

Please type or print

Date Submitted:	October 31, 2011	Meeting Date:	November 7, 2011
City of Franklin			
Requested by:	Rob H. Schafstall		
On Behalf of Organization or Individual:		Telecommunications Council and Cinergy MetroNet	
Telephone:	(317) 736-7146		
Email address:	robhschafstall@gmail.com		
Mailing Address:	98 N. Jackson Street, Franklin, IN 46131		
City of Franklin			
Requests approval of Cinergy MetroNet Project engagement letter.			
City of Franklin			
Copy of Cinergy MetroNet Project engagement letter.			
Copy of Barnes & Thornburg's Standard Terms of Engagement for Legal Services.			
City of Franklin			
Name:	Rob H. Schafstall	Telephone:	(317) 736-7146

The Franklin Board of Works meets on the 1st and 3rd Tuesday of each month at 9:30 a.m. in the Council Chambers of City Hall located at 70 E. Monroe Street. In order for an individual and/or agency to be considered for new business on the agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 12:00 p.m. on the Wednesday prior to the Board of Works meeting.

LWG

LONDON
WITTE
GROUP

October 3, 2011

City of Franklin, Indiana
c/o Robert Schafstall, City Attorney
Cutsinger and Schafstall
98 North Jackson Street
P.O. Box 159
Franklin, IN 46131

Re: Engagement Letter – City of Franklin, Indiana Taxable Economic Development Revenue Bonds, Series 2011 (Cinergy MetroNet Project)

Dear Rob:

We are presenting this engagement letter regarding our retention to provide financial advisory services in regards to the planning, sizing and issuance of the financing associated with Cinergy MetroNet Project (the "Project").

Scope of Services:

London Witte Group will provide the financial advisory services necessary in connection with the Project including, but not limited to, the following:

- A comprehensive analysis of the financing structure and options available
- Assistance with the preparation and presentation of the financial information to be presented to the City Council, Redevelopment Commission, other involved municipalities (including Johnson County and the Towns of new Whiteland and Whiteland) and the general public
- Assisting with the preparation of the Economic Development Plan for the proposed Economic Development Area
- Prepare and distribute the requested tax impact statements for the taxing entities impacted by the creation of the proposed Economic Development Area
- Review and comment on the financial aspects of all transaction documents
- Assist with the preparation and presentation of a final report on the financing to the City Council, Redevelopment Commission and the other involved municipalities after the closing of the financing
- Other such matters as directed by the City

Certified Public Accountants

One Independence Center, 1776 North Meridian Street, Suite 500 Indianapolis, Indiana 46202

Telephone | 317-634-4747 Facsimile | 317-632-2727 Toll Free | 877-634-4747

Web | www.LWGCPA.com

September 29, 2011

City of Franklin, Indiana
c/o Robert Schafstall, City Attorney
Cutsinger and Schafstall
98 North Jackson Street
Post Office Box 159
Franklin, Indiana 46131

Re: City of Franklin, Indiana Taxable Economic Development Revenue Bonds, Series 2011 (Cinergy MetroNet Project) (the "Transaction")

Dear Rob:

As we have discussed with you, the City of Franklin, Indiana (the "City") has agreed to engage Barnes & Thornburg LLP ("Barnes & Thornburg") to represent it in the Transaction related to the issuance of certain Taxable Economic Development Revenue Bonds. In such capacity, Barnes & Thornburg will be responsible for representing the City and to act as bond counsel for the Transaction. Our representation of the City in this matter will be complete upon the closing of the Transaction.

I am enclosing our Standard Terms of Engagement for legal services setting forth the standard terms upon which our firm accepts client engagements. Our engagement by the City in this matter will be governed by these standard terms to the extent not expressly modified by this letter.

In performing our services as bond counsel, our only client will be the City and we will represent its interests. We assume that the City will be represented in all other aspects of this transaction by you as its general counsel, and that all other parties to this transaction will retain such counsel as they deem necessary or appropriate to represent their interests in this transaction.

In this engagement, we expect to perform the following services:

1. Assist the City, its general counsel and its financial advisor in structuring the financing.

3. Preparing any blue sky or investment surveys with respect to the Bonds;
4. Drafting any state constitutional or legislative amendments;
5. Pursuing any test cases or other litigation;
6. Making any investigation or expressing any opinion as to the financial condition of the City, or the adequacy of the security provided to owners of the Bonds;
7. Assisting in the preparation of, or opining on, any continuing disclosure undertaking for the Bonds or, after the Closing, providing any advice concerning compliance with any continuing disclosure undertaking;
8. Responding to any Internal Revenue Service audits or Securities and Exchange Commission investigations;
9. Any other matter not specifically set forth above.

Our fees in this matter will be primarily based on the hours actually worked by each lawyer and legal assistant involved in this matter. These fees will be computed using hourly billing rates for the lawyer or legal assistant and the type of work involved that are in effect at the time you are billed for the work. Generally speaking, our billing rates vary in accordance with the experience and seniority of the lawyers and legal assistants performing the services. Our billing rates are adjusted annually, typically in December.

In representing our clients, we also make other charges in addition to our fees. Typical other charges include messenger, courier and express delivery charges; printing and reproduction charges; filing fees; travel expenses; and computerized legal research charges. Certain of these other charges may represent more than our direct cost to cover our overhead.

As you know, Barnes & Thornburg presently represents many clients with property or other interests situated within the boundaries of the City. It is possible that, during the time we are representing you in this matter, some of our present or future clients will have disputes or transactions with the City or the City's departments, agencies, instrumentalities, officials or employees. Examples of the types of representations referred to above include representing clients in land use matters, such as requests for rezoning or zoning variances; applications for tax abatement; appeals of property tax assessments; condemnation proceedings; requests for permits

whether you should consent to this joint representation, however, you should carefully consider the following.

The first matter is that of the lawyer-client privilege. Although the law is not settled, it is our opinion that any information disclosed by you to us in connection with this representation will not be protected by the lawyer-client privilege in a subsequent legal proceeding asserted by or against one of you involving another of you. Moreover, we believe we cannot effectively represent each of you if information disclosed to us by one of you must be preserved by us in confidence from the other. If we are to represent you, it will only be on the express understanding that each of you has waived the lawyer-client privilege to the extent, but only to the extent, that the privilege might otherwise require us to preserve in confidence information disclosed by one of you to us from another of you. We will, of course, preserve in confidence information disclosed to us by all of you insofar as third parties are concerned.

Second, as you know, we have represented the Town for many years in other legal matters. Although we do not feel that this prior representation will in any material fashion affect our ability to represent you on an impartial basis, you must understand that this prior representation may unconsciously bias us in favor of one or the other in the event of any disagreement between you. Should we at any time determine that such a bias exists, then we must withdraw from the representation.

Our Firm has represented, currently represents or may in the future represent, the Town in several matters unrelated to the Transaction. Those matters currently relate to general finance and loans for the Town. In this transaction, we will only represent the City with the understanding that we will continue to represent the Town in matters unrelated to the Transaction and the City hereby consents to our current and future representation of the Town.

In any case involving multiple representation, we spend a great deal of time evaluating our responsibilities under Rule 1.7. Although we feel that this is unlikely, conflicts of interest could arise in the transaction. If a dispute arises between the City and the Town, Barnes & Thornburg will not represent either the City or the Town in connection or relation to such dispute.

In the present circumstances, we believe we can represent the City in the Transaction because (1) we do not believe our representation of the City in the Transaction will materially limit our ability to represent the Town in the Transaction or adversely affect our relationship with the Town; and (2) we do not believe our representation of the City in the Transaction will

BARNES & THORNBURG LLP
STANDARD TERMS OF ENGAGEMENT FOR LEGAL SERVICES

This statement sets forth the standard terms upon which Barnes & Thornburg LLP accepts engagements to act on behalf of its clients. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this statement carefully and write us promptly if you have any questions. We suggest that you retain this statement in your file.

Our Client

The person or entity that we represent is the person or entity identified in our engagement letter and does not include any affiliates or relatives of such person or entity. This means that, unless we specifically agree otherwise, we do not have any lawyer-client relationship with your subsidiaries, parent company or other business entities in a commonly controlled group, nor with your owners, shareholders, members, managers, partners, directors, officers, employees or agents, nor, if you are an individual, with your spouse, children or other family members. Therefore, our representation of you will not impair our ability to represent another client with interests adverse to any such affiliate or family member without obtaining your consent.

Particularly in the case of business entities that are part of complex corporate structures, we are very frequently not in a position to determine what entities may be affiliated with a client, or what the nature of that affiliation may be. So we understand that you agree that we will not have a client relationship with any of your affiliates as described above, regardless of any internal arrangements for the management and affairs between our client and any such affiliate, or any operational commonality among such entities such as consolidated administrative services, common in-house legal functions, or any overlapping officers, directorships or ownership. If you have any concerns about this agreement or its implications, you should bring this to our attention forthwith.

The Scope of Our Work

With new clients, we follow the practice of describing the scope of our initial engagement in the letter we send accepting employment. With existing clients, we may not provide a description as to new matters upon which we are asked to provide services depending on the circumstances, but we will always be willing to provide such a description if asked. In any engagement we will limit our services to those you ask us to perform and those we deem reasonably necessary to accomplish the requested services. By way of illustration, we will not investigate or opine on claims against third parties or insurance coverage that is or may be available unless it is so stated in our engagement letter or you have specifically requested that we do so. Where you request specific services or advice or otherwise limit our engagement, we will confine our activities to those limitations. In that event, you should understand we will not investigate or advise you on other areas of law or potential consequences or issues arising outside these parameters. We will likewise limit our engagement and scope of services as requested to accommodate instructions to avoid incurring costs or to limit the amount of fees we incur. Such limitations may result in our not taking steps or performing work that we would otherwise consider advisable.

At times we are asked by our clients to express our opinion as to outcome of the matters on which we are working. When we are able to express opinions of this sort, they represent our best professional judgment but are not guarantees. Our opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. The outcome of legal matters and proceedings cannot be predicted with certainty.

Who Will Provide the Services

Customarily, each client of our Firm is served by a principal lawyer contact. The principal lawyer should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal lawyer at any time. Under the supervision of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the Firm. This delegation may be for the purpose of involving lawyers, legal assistants, or other professionals with experience and knowledge in a given area or for the purpose of

our direct cost to contribute toward covering our overhead expenses. We incur outside charges as agents for our clients, who agree that these charges will always be paid on a regular basis.

In some engagements that raise issues of foreign law it is necessary for us or the client to engage foreign counsel. If we engage foreign counsel on your behalf, we will typically require you to pay us for the foreign counsel's anticipated fees and charges before we remit payment to foreign counsel, and potentially before we engage them. We are not guarantors of the work of foreign counsel nor are we in a position to review the adequacy of their legal work or translation of documents. We engage foreign counsel to assist us specifically because we are not licensed or familiar with the applicable legal system and therefore are not in a position to provide those legal services or judge their adequacy. If you wish to participate in the selection of foreign counsel, you may do so.

Terms of Payment

We will bill you on a regular basis, normally each month, for both fees and other charges. We rely on you to pay us promptly. Our fees and charges are due when you receive our statement. Also, if you do not pay us within 30 days of our statement or as otherwise agreed, you agree that we may discontinue providing services immediately and withdraw from representing you after providing reasonable notice of our intention to do so. After withdrawal, we may pursue collection of your account. You also agree that until we are paid in full on all of your legal matters, and except to the extent otherwise prohibited or limited by law, we shall have a lien on all papers and files in our possession related to any of the matters in which we have represented you, and any property recovered or obtained as a result of our work on your behalf. You agree to pay the costs of collecting the debt, including court costs, filing fees and reasonable attorneys' fees.

The Firm also reserves the right in its sole discretion to require an advance deposit at any time based on past payment history, creditworthiness or other factors that may cause the Firm to conclude it is appropriate to do so.

Advance Deposits

New clients of our Firm will ordinarily be asked to make an advance deposit with the Firm. Existing clients may also be required to provide advance deposits for particular matters if the Firm believes that is appropriate under the circumstances. Typically, the advance deposit is equal to the fees and other charges likely to be incurred during a two-month period. The advance deposit is charged for fees and other charges as our legal services are provided. Regular statements will be furnished to you for purposes of disclosing the fees and other charges which have been deducted from the advance deposit and the amount which must be paid to replenish the advance deposit to the agreed level. If the advance deposit proves insufficient to cover current fees and other charges on the basis stipulated, we may request that the balance be increased. At the conclusion of our legal representation or at such time as the advance deposit is no longer necessary or is appropriately reduced, the remaining balance of it will be returned to you.

Any advance deposit we receive from you will be held in our trust account until it is charged for fees and other charges for your account or is returned to you. No interest is paid on amounts held by us in our trust account. In particular, court rules in jurisdictions in which we practice require that interest earned on pooled client trust accounts is payable to a charitable foundation established in accordance with the court's rule. While your advance deposit is held by us in our trust account, it remains your property. However, by making the initial advance deposit and by replenishing or increasing it from time to time, you grant us a security interest in the balance of the advance deposit we hold in our trust account from time to time to secure payment of incurred fees and other charges for which you are responsible. You authorize us to apply the deposit to any fees and charges that you owe us for any services we have provided.

Other deposits that we receive to cover specific items will also be held by us in our general trust account (without interest) and disbursed as provided in our agreement with you, and you will be notified from time to time of the amounts applied or withdrawn. Any amount remaining after disbursement will be returned to you.

and information that you may request so that you can keep and maintain your own file related to our representation. Upon termination of our representation and payment of any fees and other charges that have been incurred on any of the matters in which we have represented you, we will make certain parts of the file (such as correspondence, court filings, documents produced in discovery) available to you or successor counsel for inspection and copying at your expense. For various reasons, including the need to minimize unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any documents or other materials retained by us after the termination of the engagement. We may also rely on the availability of public governmental records as a method of maintaining a record of your matters. With respect to any engagement to which the Minnesota Rules of Professional Conduct apply, Minnesota Rule 1.16 controls and takes precedence over any conflicting provision of this paragraph.

Our representation of you in any matter is limited to that specific matter, and will not give rise to any ongoing attorney-client relationship. After termination of our representation of you in any matter, we may from time to time represent you in such subsequent matters as you may request. However, we are under no obligation to represent you in any subsequent matters, and nothing herein should be construed to give rise to any attorney-client relationship after such termination. If we do undertake to represent you in any subsequent matter, the scope and duration of our representation will be limited to that specific subsequent matter and, unless we expressly establish new terms of engagement with you at that time, these terms of engagement will apply.

Lawyers sometimes become personally entangled in court proceedings in connection with their clients' matters. If our Firm or any of our lawyers or staff are named as a party, or are required to produce evidence or appear, in a legal proceeding as a result of our services performed for you (other than as a result of our misconduct or negligence), you agree, even after our representation has terminated, to pay us for our lawyers' and non-lawyers' time and other charges and advances incurred in connection with our defense or participation in such proceeding, on the same basis that applies to our standard hourly fees and charges in effect at the time.

After termination of our representation of you in any matter, changes may occur in applicable laws or regulations that could have an impact upon your rights and liabilities. Unless you subsequently engage us to provide such advice on the same matter, our Firm has no continuing obligation to advise you with respect to future legal developments.

October 2010