April 28, 2015

The regular meeting of the Otsego County Board of Commissioners was held at the County Building, 225 West Main St., Room 100. The meeting was called to order at 9:30 a.m. by Chairman Ken Borton. Invocation by Commissioner Julie Powers-Gehman, followed by the Pledge of Allegiance led by Tim McGuire.
Roll Call:
Present: Julie Powers-Gehman, Paul Beachnau, Lee Olsen, Erma Backenstose, Richard Sumerix, Doug Johnson, Ken Borton, Bruce Brown.
Excused: Paul Liss.

Motion by Commissioner Richard Sumerix, to approve the regular minutes of April 14, 2015 with attachments. Ayes: Unanimous. Motion carried.

Consent Agenda:
Motion to approve the 9-1-1 fund budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion to approve the Point and Pay Agreement. Ayes: Unanimous. Motion carried. (see attached)

Administrator's report:
John Burt reported on the Community Center; Courthouse plaza.

Motion by Commissioner Doug Johnson, to authorize the County Administrator to solicit bids for the Courthouse Plaza. Ayes: Unanimous. Motion carried.

Special Presentations:
Tim McGuire reported on the Michigan Association of Counties.

Department Head Report:
Vern Schlaud reported on the Land Use Services.

Committee Report:
Motion by Commissioner Paul Beachnau, to approve the Wolverine Power Escrow Agreement as presented. Ayes: Unanimous. Motion carried. (see attached)

Motion by Commissioner Julie Powers-Gehman, to approve a part-time seasonal clerk position for the Building Department at $10.00 per hour for five (5) months at 20 hours per week with 100 additional hours available during the season for workload/coverage needs and add up to an additional 150 extra hours available for the regular part-time position to use as needed for workload/coverage needs, along with the associated budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion by Commissioner Erma Backenstose, to approve the amendments to the Otsego County Master Plan as presented. Ayes: Unanimous. Motion carried.

Motion by Commissioner Erma Backenstose, to move to delete the word 'non-profit' from section 7.2.3 as proposed per Article 7 RR/Recreation Residential, Section 7.2 permitted uses subject to special conditions to the Otsego County Zoning Ordinance. Ayes: Unanimous. Motion carried. (see attached)

Motion by Commissioner Lee Olsen, to approve the second amendment to the Emmet County Recycling agreement as presented. Ayes: Unanimous. Motion carried. (see attached)

City Liaison, Township and Village Representative:
Julie Powers-Gehman reported on the City meeting.

Correspondence: - None.

New Business:

Motion by Commissioner Richard Sumerix, to approve the April 21, 2015 Warrant in the amount of $1,531,052.22. Ayes: Unanimous. Motion carried.

Motion by Commissioner Bruce Brown, to approve the April 28, 2015 Warrant in the amount of $340,109.20. Ayes: Unanimous. Motion carried.

Public Comment:
Chairman Ken Borton opened up the meeting for public comment.

Board Remarks:

Commissioner Paul Beachnau reported on the Livingston Township meeting; City Council meeting; Gaylord Tourism Bureau luncheon May 6, 2015 at Treetops; State of the Community luncheon May 12, 2015.

Commissioner Julie Powers-Gehman had no report.
Commissioner Lee Olsen had no report.
Commissioner Erma Backenstose had no report.
Commissioner Bruce Brown reported on the Sportsplex.
Commissioner Richard Sumerix had no report.
Commissioner Doug Johnson had no report.
Chairman Ken Borton attending the MAC Environmental Committee meeting.

Meeting adjourned at 10:38 a.m.

_____

Kenneth C. Borton Chairman

_____

Susan I. DeFeyter, Otsego County Clerk

OTSEGO COUNTY
BUDGET AMENDMENT

FUND/DEPARTMENT: 911 Fund

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type: ☐General X Special Revenue ☐Debt Service ☐Capital Project ☐Business-Type (Enterprise or Internal Svc)

REVENUE Purchase of 16 APX4000 Police Radios

Account Number	Decrease	Increase
261-050-400.001 – Use of Fund Balance	$	$40,000
- -	$	$
- -	$	$
- -	$	$
Total	**$**	**$40,000**

EXPENDITURE

Account Number	Increase	Decrease
261-901-970.435 – Property – Machinery & Equipment	$40,000	$
- -	$	$
- -	$	$
- -	$	$
- -	$	$
- -	$	$
Total	**$40,000**	**$**

Department Head Signature _____ Date _____

Administrator's Signature _____ Date _____

Finance Department
Entered:
By:

Board Approval Date (if necessary) _____ Budget Adjustment # _____ Posting Number _____

OCF-3 (10/14/05)

POINT & PAY, LLC
E-PAYMENT SERVICES AGREEMENT

Parties:

Point & Pay, LLC ("**PNP**")
A subsidiary of NAB, doing business in Delaware

[Otsego County, MI]("**Client**")

Terms

SECTION 1 E-PAYMENT SERVICES

1.1 Access to Payment Modules

1.1.1 Pursuant to this E-Payment Services Agreement (this "**Agreement**"), PNP grants Client a limited, non-exclusive, non-transferable and terminable license for the duration of the Term to use the electronic payment services (the "**Services**") and payment modules (each, a "**Module**") chosen in the attached product application ("**Product Application**") to enable Client's customers ("**Customers**") to make payments to Client using a Payment Device. "**Payment Device**" means the payment type(s) chosen by Client on the Product Application. A description of all Modules, Services, training and support offered by PNP is attached as Exhibit A (the "**Services Description**").

1.1.2 At the time of Client's execution of this Agreement, Client shall also return the completed Client Application to PNP. Subject to the terms and conditions of this Agreement, the Services may be also be used by the affiliated offices, bureaus, agencies or departments of Client ("**Affiliates**"). Each Affiliate shall complete a Client Application prior to commencement of the Services.

1.2 Client Representatives

PNP will provide Client's authorized representatives with a logon and password to access the Counter Module. Client shall be solely responsible for maintaining the confidentiality and security of the logons and passwords provided by PNP. Client will cause each of its representatives to change the initial password, keep the passwords confidential, refrain from sharing passwords and/or logon information with any unauthorized user, and use no other password to access the Counter Module. PNP shall be entitled to rely on any communications it receives under Client's passwords, logon information, and/or account number as having been sent by Client, without conducting any further checks as to the identity of the user of such information. PNP will not be responsible for the operability or functionality of any of Client's computer equipment, system, browser or Internet connectivity.

1.3 Payment Device Transactions

All Payment Device transactions using the Services will be processed through a secured link. The parties to each Payment Device transaction will be the Customer cardholder, the Client and PNP.

1.4 Service Promotion

Client will use reasonable efforts to promote the Services and build awareness of the Services with its customers through various media including, but not limited to:

- Print: Bill inserts, counter displays, and announcements in Client's newsletter
- Online: Home page announcements with an easily accessible, one-click link to payments page.
- Phone/IVR: Pre-recorded message with the ability to transfer to payments IVR (e.g., "Press 2 to make a payment") or provide the IVR phone number to call.
- Joint Press Releases: The parties shall mutually agree upon press releases announcing the availability of electronic payment services and the partnering of Client and PNP.

1.5 Trademark License

PNP grants Client a limited, non-exclusive, non-transferable license to use the PNP trademarks, service marks and logos provided by PNP to Client (the "**Trademarks**") solely in connection with Client's promotion of the Services to Customers. Client shall not alter the Trademarks nor use the Trademarks in any way which is disparaging, dilutive or otherwise adversely affects the reputation of PNP.

1.6 Client Logo License

Client grants PNP a limited, non-exclusive, non-transferable license to use its applicable logos, copyrighted works and trademarks ("**Client Marks**") solely in connection with the Services provided to Client. Client shall provide the Client Marks to PNP for use with the Services. Client represents that it has all intellectual property rights required for Client's and PNP's use of Client Marks, and shall indemnify PNP against any third party claims that the Client Marks infringe the intellectual property rights of a third party.

SECTION 2 COMPENSATION

2.1 Services Transaction Fee

PNP will charge the transaction fee to use the Services set forth on the Product Application. If Services fees are charged directly to Customers by PNP, Customers will receive a notice each time they use the Services stating that the Services are provided by PNP and that a convenience fee is charged for use of the Services. PNP may change the amount of such fee by notifying Client of such new amount at least thirty (30) days prior to such change.

2.2 Activation Fee

If applicable, Client shall pay the one-time Activation Fee set forth on the Product Application. If the Activation Fee or any portion of the Activation Fee is waived by PNP and the Client does not implement the Service under this Agreement within six months after the Effective Date, other than due to a material breach by PNP, the waived portion of the Activation Fee shall become immediately due and payable.

2.3 Charge-backs and Returns

Unless otherwise specified in the Product Application, PNP will set off (a) the amount of any charge-backs, refusals to pay and returns from any amounts otherwise owing by PNP to Client and (b) a transaction handling fee for charge-backs and non-sufficient funds (NSF) as specified in the Product Application.

2.4 ACH Debit of Fees

Client hereby authorizes PNP, and any subsidiary or successor thereof, solely with respect to amounts due pursuant to this Agreement and any subsequent agreements between Client and PNP, including but not limited to service fees, transaction fees, charge-backs and returns as set forth in Sections 2.1 and 2.3 of this Agreement, to initiate Automated Clearing House ("ACH") Authorizations to credit and debit Client's bank account as set forth on the Banking Authorization Form attached hereto as Exhibit B or otherwise provided by Client. Client acknowledges that it will be subject to a $25 reject fee if items are returned for insufficient funds.

SECTION 3 INTELLECTUAL PROPERTY; CONFIDENTIALITY

3.1 No Transfer or License

Except for the rights expressly granted to Client in this Agreement, no PNP Intellectual Property Right is transferred or licensed to Client pursuant to this Agreement, by implication or otherwise. PNP reserves and retains all rights, title and interests in and to the PNP Intellectual Property Rights, and all copies, revisions, modifications, updates, and upgrades thereof. Client agrees not to remove, alter or destroy any copyright, patent notice, trademark or other proprietary markings or confidential legends placed on or within any portion of the PNP Intellectual Property Rights. For purposes of this Agreement, "**Intellectual Property Rights**" means all the intellectual property, industrial and other proprietary rights, protected or protectable, under the laws of the United States, any foreign country, or any political subdivision thereof, including (a) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers, (b) copyrights, moral rights (including rights of attribution and rights of integrity), (c) all trade secrets, inventions, discoveries, devices, processes, designs, techniques, ideas, know-how and other confidential or proprietary information, whether or not reduced to practice, (d) all domestic and foreign patents and the registrations, applications, renewals, extensions and continuations (in whole or in part) thereof, and (e) all goodwill associated with any of the foregoing and (f) all rights and causes of action for infringement, misappropriation, misuse, dilution or unfair trade practices associated with (a) through (d) above.

3.2 Ownership and Use of PNP Materials

Any software developed by or on behalf of PNP for use in connection with the Services remains the exclusive property of PNP. Client will not sell, transfer, barter, trade, license, modify or copy any such software. Web pages accessible through use of the Services are the copyrighted intellectual property of PNP and may not be copied in whole or part by anyone. Any training materials (including, but not limited to, webinars and manuals) provided to Client by PNP shall remain the exclusive property of PNP. PNP grants Client and Client's personnel a limited, non-exclusive, non-transferrable license to use and to make copies of the training materials with its personnel solely in connection with the Services. Training materials may not be modified by Client or its personnel or disclosed to any third party, including Client's end-user customers. Client shall ensure all personnel shall complete and review all training materials prior to using the Services.

3.3 Reverse Engineering

Client will not reverse engineer, reverse assemble, decompile or disassemble any of PNP's intellectual property, nor will Client attempt to do so or enable any third party to do so or otherwise attempt to discover any source code, modify the Service in any manner or form, or use unauthorized modified versions of the Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the Service. Client is expressly prohibited from sublicensing use of the Service to any third parties. If Client becomes aware that any person has engaged or is likely to have engaged in any of the activities described in this Section 3.3, Client will promptly notify PNP.

3.4 Confidential Information

3.4.1 Any Confidential Information provided by PNP to Client pursuant to this Agreement will remain the exclusive property of PNP. Client will disclose such Confidential Information only to those of its representatives and employees who need to know such Confidential Information for purposes of performing this Agreement, who are informed of the confidential nature of the Confidential Information and who agree, for the benefit of PNP, to be bound by the terms of confidentiality in this Agreement. Client will, and will cause each of its representatives and employees, to keep confidential and not to disclose in any manner whatsoever any Confidential Information provided by PNP pursuant to this Agreement, and not to use such Confidential Information, in whole or in part, directly or indirectly, for any purpose at any time other than for the purposes contemplated by this Agreement. Notwithstanding the foregoing, if Client is a city, county, township or similar entity, or government agency or department thereof, Client may disclose Confidential Information as necessary to comply with applicable public records laws.

3.4.2 For purposes of this Agreement, **"Confidential Information"** means all nonpublic or proprietary information of PNP, including proprietary, technical, development, marketing, sales, operating, performances, cost, know-how, business and process information, computer programs and programming techniques, security features (including, without limitation, multi-level access and log-in features, audit trail setup, interfaces between the Counter Module and the Internet or IVR Modules), all record bearing media containing or disclosing such information and techniques, and anything marked confidential, that is disclosed by PNP to Client pursuant to this Agreement. Confidential Information also includes the terms and conditions of this Agreement.

3.5 Exclusions

The term Confidential Information will not apply to information that: (a) is or becomes generally available to the public other than as a result of a disclosure by Client in breach of this Agreement; (b) was within Client's possession prior to its disclosure by or on behalf of PNP, provided that the discloser of such information was not known by Client to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, PNP with respect to such information; (c) becomes available to Client on a non-confidential basis from a source other than PNP, provided that such source is not known by Client to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, PNP with respect to such information; or (d) is developed independently by Client, as demonstrated by the written records of Client, without use of such information. The confidentiality obligations of Client pursuant to this Agreement will not apply to any Confidential Information of PNP that Client is legally compelled to disclose. In the event Client becomes legally compelled to disclose any Confidential Information provided pursuant to this Agreement, Client will provide PNP with prompt written notice so that PNP may seek a protective order or other appropriate remedy or waive compliance with the confidentiality provisions of this Agreement.

3.6 Failure to Comply

If Client fails to comply with any of its obligations pursuant to this Section 3, PNP will have the right to immediately terminate this Agreement by providing written notice of such termination to Client.

3.7 Survival

The rights and obligations of the parties provided for in this Section 3 will survive any expiration or termination of this Agreement or its term.

SECTION 4 WARRANTIES; DISCLAIMER

4.1 Warranties

4.1.1 Each party represents and warrants that it has the full legal right, authority and power to enter into this Agreement and perform its obligations hereunder.

4.1.2 PNP represents and warrants that the Services will be provided in a professional, workman-like manner consistent with industry standards.

4.2 Disclaimers

4.2.1 PNP does not represent that Client's or its Customers use of the Services will be uninterrupted or error-free, or that the system that makes the Services available will be free of viruses or other harmful components resulting from the Internet or any third party providers or products outside the control of PNP.

4.2.2 EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 4, PNP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE SERVICE IS PROVIDED TO CLIENT ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND IS FOR COMMERCIAL USE ONLY.

SECTION 5 LIMITATIONS OF LIABILITY AND OBLIGATION

5.1 Damages and Liability Limit

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY RELEASES THE OTHER PARTY AND ALL OF THE OTHER PARTY'S AFFILIATES, EMPLOYEES, AND AGENTS FROM ANY SUCH DAMAGES. IN NO EVENT WILL PNP HAVE OR INCUR ANY LIABILITY TO CLIENT OR ANY THIRD PARTY IN EXCESS OF THE AGGREGATE COMPENSATION RECEIVED BY PNP FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM FOR SUCH LIABILITY. THE FOREGOING EXCLUSIONS AND LIMITATIONS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

5.2 Refusals of Payment

PNP will not be liable for charge-backs or other refusals of payment initiated by any Customer. All such charge-backs and other refusals of payment will be refunded by PNP to the Customer and Client will mark and otherwise treat the related Customer account as "unpaid."

5.3 Errors and Omissions

PNP will not be liable for any errors or omissions in data provided by Client or Customers. Client will be responsible for the accuracy of data provided to PNP for use in providing the Services.

5.4 Bank Actions

PNP will not be liable for any errors, omissions or delays attributable to the acts or omissions of any bank or other third party involved in the processing of any Payment Device payment.

SECTION 6 CARDHOLDER DATA SECURITY

To the extent applicable, each of the parties shall be required to comply at all times with the Payment Card Industry Data Security Standard Program ("PCI-DSS") in effect and as may be amended from time to time during the term of the Agreement. The current PCI-DSS specifications are available on the PCI Security Standards Council website at https://www.pcisecuritystandards.org.

SECTION 7 EXCLUSIVITY

Client agrees that PNP will be the exclusive provider of fee-based electronic payment services and that Client will not procure similar such services from any other party.

SECTION 8 TERM AND TERMINATION

8.1 Term

The initial term of this Agreement will commence on the Effective Date and will end on the third (3rd) anniversary of the Effective Date (the "**Initial Term**"). This Agreement will automatically renew for successive one (1)-year terms (each, a "**Renewal Term**," and the Initial Term and any Renewal Term may be referred to as a "**Term**"). The term of this Agreement will terminate at the end of the Initial Term or any subsequent Renewal Term if either party provides written notice of such termination to the other party at least sixty (60) days prior to the expiration of the applicable Term.

8.2 In the Event of Breach; Effect on Affiliates

8.2.1 Subject to the opportunity to cure set forth below, either party may terminate this Agreement upon sixty (60) days written notice to the other party in the event of a material, uncured breach of any provision of this Agreement by the other party. Such notice by the complaining party shall expressly state all of the reasons for the claimed breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach ("**Notice**").

8.2.2 Following receipt of Notice, the alleged breaching party shall have sixty (60) days to cure such alleged breach. Upon termination or expiration of this Agreement, Client shall have no rights to continue use of the Service or the Modules. Expiration or termination of the Agreement by Client or PNP shall also terminate the Affiliates' rights under the Agreement unless otherwise agreed by the parties in writing. PNP may terminate the Agreement solely with respect to an individual Affiliate without affecting the rights and obligations of Client and other Affiliates under the Agreement.

8.3 Modification to or Discontinuation of the Service

PNP reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof). In addition, PNP will have the right to discontinue accepting any Payment Device by providing not less than ten (10) days' written notice to Client. In the event that PNP modifies the Service in a manner which removes or disables a feature or functionality on which Client materially relies, PNP, at Client's request, shall use commercially reasonable efforts to substantially restore such functionality to Client. In the event that PNP is unable to substantially restore such functionality within sixty (60) days, Client shall have the right to terminate the Agreement. Client acknowledges that PNP reserves the right to discontinue offering the Service and any support at the conclusion of Client's then-current Term. Client agrees that PNP shall not be liable to Client nor to any third party for any modification of the Service as described in this Section.

SECTION 9 PAYMENT DEVICE TRANSACTION DEPOSITS

The exact amount of each approved Payment Device transaction will be electronically deposited into the Client bank account identified on the Client Application. PNP shall initiate such deposits as specified on the attached Client Application. PNP will provide Client's authorized employees with access to PNP's online transaction reports for reconciliation purposes.

SECTION 10 FORCE MAJEURE

PNP will not be responsible for its failure to perform under this Agreement due to causes beyond its reasonable control, including acts of God, wars, riots, revolutions, acts of civil or military authorities, terrorism, fires, floods, sabotage, nuclear incidents, earthquakes, storms, or epidemics. If the provision of Services under this Agreement is delayed by such an event or condition, PNP will promptly notify Client thereof. PNP will use commercially reasonable efforts to overcome any such cause for delay as soon as is reasonably practicable.

SECTION 11 GOVERNING LAW

This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of (Michigna) without reference to its conflicts of law principles.

SECTION 12 NOTICES

All notices or other communications required or permitted by this Agreement must be in writing and will be deemed to have been duly given when delivered personally to the party for whom such notice was intended, or upon actual receipt if sent by facsimile or delivered by a nationally recognized overnight delivery service, or at the expiration of the third day after the date of deposit if deposited in the United States mail, postage pre-paid, certified or registered, return receipt requested, to the respective parties at:

If to Client: See Merchant Application

If to PNP: Point & Pay, LLC
110 State St. E, Suite D
Oldsmar, FL 34677

MISCELLANEOUS

The headings of sections and subsections of this Agreement are for convenience of reference only and will not be construed to alter the meaning of any provision of this Agreement. PNP is an independent contractor and nothing in this Agreement will be deemed to create any agency, employee-employer relationship, partnership, franchise or joint venture between the parties. Except as otherwise specifically provided in this Agreement, neither party will have, or represent that it has the right, power or authority to bind, contract or commit the other party or to create any obligation on behalf of the other party. Each of the parties will have any and all rights and remedies available to them under all applicable laws. The remedies provided for in this Agreement will be deemed to be non-exclusive and in addition to any other available remedy at law or in equity. All rights and remedies are cumulative and may be exercised singularly or concurrently. Client may not assign or transfer any of its rights or delegate any of its obligations under this Agreement to any third party, by operation of law or otherwise, without the prior written consent of PNP. Any attempted assignment or transfer in violation of the foregoing will be void. This Agreement will be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. Client shall comply with all applicable laws, rules, treaties, and regulations in its performance of this Agreement. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, the remaining provisions of this Agreement will not be affected and the illegal, invalid, or unenforceable provision will be deemed modified such that it the intention of the parties to the fullest extent possible. No amendment or modification of this Agreement will be effective unless it is in writing and executed by both of the parties. Nothing contained in this Agreement establishes, creates, or is intended to or will be construed to establish or create, any right in or obligation to any third party. This Agreement, the Exhibit(s) and the Client Application set forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

The parties have duly executed this Agreement as of the date of the last signature below (the "**Effective Date**").

Point & Pay, LLC

By: _____

Name: _____

Title: _____

Date: _____

[Otego County, MI]

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Services Description

The following is a description of all Services and Modules offered by PNP. PNP shall provide the Services to Client and its end-user customers via the specific Modules and Payment Devices chosen by Client in the Client Application. Applicable fees, if any, for Client's elections are set forth on the Client Application. The Services include support and training outlined below at no additional charge to Client.

Service Modules

- **Counter Module.** The Counter Module allows customers to make payments to Client in a face-to-face environment or over the phone using a Payment Device. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the Counter Module. The Counter Module also enables Client's staff to access reports via the web. The Counter Module is required to access the PNP Services. The Counter Module may be used in conjunction with or independently of point-of-sale (POS) terminals.

- **Web Module.** The Web Module allows customers to make payments to Clients online using a Payment Device via a secure website hosted by PNP. Customers who elect to make payments via the Internet can follow a link from the Client website to the Client-branded, PNP-hosted web pages to submit a payment. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the Web Module. Client may elect bill presentment and account validation functionality for the one-time set-up fee set forth on the Client Application under "Data File Integration."

- **Interactive Voice Response (IVR) Module.** The IVR Module allows Customers to make payments to Clients over the phone using a Payment Device. The Customer calls a toll-free phone number provided and managed by PNP to access the Client branded IVR. The IVR system recognizes Customer instructions through making a payment; the phone keypad is used to enter Payment Device numbers. The IVR system is configured and tested by PNP. PNP will issue unique confirmation numbers to customers who have completed a payment transaction using the IVR Module. Election of the IVR Module includes a Client-branded IVR environment and, if applicable, Client shall pay the one-time IVR set-up fee for the IVR Module set forth on the Client Application. In addition, Client may elect to have bill presentment and account validation functionality enabled through the IVR for the one-time set-up fee on the Client Application under "Data File Integration."

Customer Payment Devices

Each of the Modules can provide the Customer with the ability to pay by Credit Card, Debit Card and/or Electronic Check.

Training

PNP shall provide instruction manuals and up to four (4) hours of webinar training to Client and Client personnel in connection with the Modules chosen by Client.

Support

The following support shall be provided to Client and Client's customers at no additional charge during the term of the Services:

- First Level Support. PNP shall provide first-level support to Customers via PNP's call center. Customer service representatives shall be available 8 a.m. EST to 10 p.m. EST M-F, to handle customer inquiries.
- Second Level Support. PNP shall provide first-level support to Client via telephone. Second level support shall be available Monday through Friday during normal business hours.

Support availability shall be exclusive of downtime due to scheduled maintenance or events out of PNP's control. Support for the Products may be modified, suspended or terminated in PNP's sole discretion upon prior written notice.

Exhibit B

Client Application

Client Bank Banking Application

Product Application

SITE DEMOLITION & RESTORATION
CASH ESCROW ESTABLISHMENT AGREEMENT

This Site Demolition and Restoration Cash Escrow Establishment Agreement ("Agreement"),

BETWEEN

Wolverine Power Supply Cooperative, Inc., the Developer of the Wolverine Alpine Power Plant Project on M-32 West in Elmira, MI, hereinafter called the "Developer" and the County of Otsego, Michigan ("County").

The above parties agree to the following conditions of this Agreement which is hereby established to fulfill the requirements for the Wolverine Alpine Power Plant Project.

A. The Developer agrees:

1. To the establishment of an escrow account ("Escrow Account"), payable to the County with CoBank of a sufficient amount to cover the entire cost of demolition and removal of facilities and equipment including concrete associated with the Development along with site restoration in accordance with the Special Use Permit, PSUP #14-004, dated December 11, 2014, granted by the Otsego County Planning Commission ("PSUP #14-004"). Such demolition removal and site restoration are to take place in accordance with PSUP #14-004. The developer shall obtain any necessary permits for demolition, removal, and site restoration work in accordance with the Administration and Enforcement (Article 25) of the August 13, 2013 Otsego County Zoning Ordinance.

2. The Developer shall deposit cash or other instruments readily convertible into cash at face value into the Escrow Account in the amount of $188,000 with interest earned staying with the Escrow Account. The $188,000 referenced in this section is the Minimum Amount referenced in the Agreement Regarding Escrow Account between CoBank, ASB, Otsego County, and Wolverine Power Supply Cooperative, Inc., dated _____ ("Escrow Account Agreement"). The use of any instrument other than cash and the lending institution utilized shall be subject to the approval of the County of Otsego Board of Commissioners or its appointee.

3. That the funds established in said Escrow Account shall be used for demolition and removal of facilities and equipment, and site restoration, and shall not be disbursed except as authorized by the County of Otsego board of Commissioners or its appointee.

4. The Developer is responsible for the payment of all bank fees detailed in the Agreement Regarding Escrow Account. No bank fees shall be paid out of the Escrow Account. Any bank fees shall be paid directly by the Developer.

5. The Developer guarantees that all demolition, removal of facilities and equipment, and site restoration will be completed after the closure of the plant, according to the terms of PSUP #14-004, unless an extension is requested in writing by the Developer and approved by the County of Otsego Board of Commissioners or its appointee.

6. The Developer shall indemnify the County for any claims arising under both the Agreement Regarding Escrow Account as well as this Agreement, except for claims that arise because of the sole negligence of the County.

7. The Developer shall provide quarterly reports electronically to the County as to the fund balance in the Escrow Account.

B. The County of Otsego agrees:

1. To accept this Agreement in lieu of a performance bond or similar instrument.

2. Upon completion of the demolition and removal of the facilities and equipment, as well as site restoration in compliance with PSUP #14-004, along with any other laws, as determined by the County of Otsego Board of Commissioners or its appointee, any remaining funds will be returned to the Developer.

C. Other Conditions

1. If a conflict between the Escrow Account Agreement and this Agreement should arise, the Escrow Account Agreement controls.

2. If any one or more of the provisions contained in this Agreement shall, for any reason be held to be invalid, illegal or unenforceable in any respect, it shall not affect any other provisions of this Agreement and this Agreement, to the maximum extent possible, shall be enforced as written.

3. If any provision in this Agreement shall be held to be excessively broad, it shall be construed by limiting it so as to be enforceable to the extent compatible with applicable law.

4. The obligations, rights and remedies of the Parties under this Agreement supersede all previous oral or written communications, representations, understandings or agreements between the Parties relating to this subject. This Agreement may be modified only by a duly authorized and executed writing by the Parties.

5. The rights and remedies of the Parties under this Agreement shall inure to the benefit of the successors, assigns and transferees of the Parties. Any Confidential Information disclosed by an affiliated company or member of either of the Parties which would otherwise constitute Confidential Information hereunder if disclosed by either of the Parties, shall be deemed to constitute Confidential Information under this Agreement, and the rights of such Party under this Agreement may be enforced by any such affiliate or member as if such affiliate or member were also a Party to this Agreement. Each of the Parties may disclose any Confidential Information received hereunder to employees, officers or directors of any of its affiliated companies or members, provided such employees, officers or directors need to know such Confidential Information and

provided further that such employees, officers and directors comply with the provisions of this Agreement.

6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement by the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or electronic transmission shall be deemed to be their original signatures for any purpose whatsoever.

7. No waiver of any breach or default hereunder shall be considered valid unless in writing, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

8. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Michigan, without regard to conflict of law provisions thereof. All litigation related to this Agreement shall be brought in a court located in the state of Michigan, and each Party, for the purposes of any such litigation, hereby submits to the exclusive jurisdiction and venue of that court.

9. All notices to be sent to the Parties shall be deemed delivered if actually received either through the United States mail, via hand delivery or overnight, express delivery, or via facsimile or electronic mail address to the signatories below with a copy to their respective in house counsels as designated below.

10. To the extent there is any inconsistency between the terms of this Agreement and the Escrow Account Agreement, the terms of the Escrow Account Agreement shall control.

Country of Otsego:

By: _____

Title: _____

Date: _____

Wolverine Power Supply Cooperative, Inc.:

By: _____

Title: _____

Date: _____

Otsego COUNTY MICHIGAN

OTSEGO COUNTY
BUDGET AMENDMENT

FUND/DEPARTMENT: Land Use Services

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type: ☐ General ☑ Special Revenue ☐ Debt Service ☐ Capital Project ☐ Business-Type (Enterprise or Internal Svc)

DESCRIPTION Increase hours for existing staff and add funds for new seasonal staff position

REVENUE

Account Number	Decrease	Increase
249-050-400.001 Budgeted Use of Fund Balance	$	$ 7,500
	$	$
	$	$
	$	$
Total	$	$

EXPENDITURE

Account Number	Increase	Decrease
249-371-703.060 Part time wages	$ 7,000	$
249-371-704.200 Payroll taxes	$ 500	$
	$	$
	$	$
	$	$
	$	$
Total	$ 7,500	$ 7,500

Department Head Signature **Date**

Administrator's Signature **Date**

Entered:
By:

4/28/15

Board Approval Date (If necessary) **Budget Adjustment #** **Posting Number**

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Department of
Land Use Services
1322 Hayes Rd • Gaylord, MI 49735
Phone (989)731-7400 • Fax (989)731-7429
www.otsegocountymi.go

To: Otsego County Board of Commissioners

RE: Article 7/Recreation Residential amendment

The following was presented to Elmira Township and the Otsego County Planning Commission for recommendation to the Otsego County Board of Commissioners:

*Per a request from Elmira Township, the Otsego County Planning Commission is recommending an amendment to ARTICLE 7 RR/RECREATION RESIDENTIAL, SECTION 7.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS in the Otsego County Zoning Ordinance with the deletion of the word *'nonprofit'* in 7.2.3 to read: ***'Private, recreational areas and facilities'***

Motion made to recommend the deletion of the words *non-profit* from Section 7.2.3 as proposed per Article 7 RR/Recreation Residential, Section 7.2 Permitted Uses Subject to Special Conditions to the Otsego County Board of Commissioners by Mr. Hartmann; Seconded by Mr. Klee.

Motion approved unanimously.

Current Language:

ARTICLE 7 RR RECREATION RESIDENTIAL DISTRICT

INTENT

The Recreation Residential District is designed to accommodate cottage and vacation home developments. It is intended that the vacation home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services, and major institutional or community services.

SECTION 7.1 PRINCIPAL USES PERMITTED...

SECTION 7.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

7.2.1 Community boat launching ramps, docks and accessory facilities.

7.2.2 Golf courses as regulated in the R1 District [See Articles 4.2.5 and 21.11].

7.2.3 Private, non-profit recreational areas and facilities.

7.2.4 Marinas...

Proposed Amended Language:

ARTICLE 7 RR RECREATION RESIDENTIAL DISTRICT

INTENT

The Recreation Residential District is designed to accommodate cottage and vacation home developments. It is intended that the vacation home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services, and major institutional or community services.

SECTION 7.1 PRINCIPAL USES PERMITTED...

SECTION 7.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

7.2.1 Community boat launching ramps, docks and accessory facilities.

7.2.2 Golf courses as regulated in the R1 District [See Articles 4.2.5 and 21.11].

7.2.3 Private recreational areas and facilities.

7.2.4 Marinas...

SECOND AMENDMENT TO
AGREEMENT REGARDING RECYCLABLE MATERIALS
between
COUNTY OF EMMET
and
COUNTY OF OTSEGO

This Amendment is made this _____ day of _____, 2015 to the Agreement for Recyclable Materials dated March 11, 2013 between the County of Emmet, Michigan, and the County of Otsego, Michigan, as amended on October 10, 2013, and is to be attached to and made a part of the Agreement.

NOW THEREFORE, the parties agree as follows:

1. The Agreement shall be extended from April 1, 2016 to March 31, 2019, and may be further extended under terms and conditions mutually agreed upon by the parties. Otsego may exercise this option by giving Emmet County notice of such extension at least 90 days prior to the expiration of the Agreement.

2. Section 4 of the Agreement for shall be amended to state:

4. COMPENSATION/RATES FOR RECYCLABLES. Except as otherwise provided herein, Otsego County will pay to Emmet County the following rates for its acceptance of recyclable materials:

* * *

Year 3: $60 per ton processed and $1,440 per month for the lease of 14 recycling bins to the capped total amount of $38,080 (formerly) revised to $42,000, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 4: $66 per ton processed and $1440 per month for the lease of 14 recycling bins to the capped total amount of $64,000, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 5: $68 per ton processed and $1440 per month for the lease of 14 recycling bins to the capped total amount of $68,000, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 6: $70 per ton processed and $1440 per month for the lease of 14 recycling bins to the capped total amount of $72,000, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Until December 31, 2015, Emmet County will provide revenue sharing to Otsego County at $5.00 per ton on all mixed fiber based on actual weights received and marketed monthly.

For the remainder of Year 3 and for Years 4, 5, and 6, Emmet County will provide revenue sharing to Otsego County in accordance with Emmet County's Revenue Sharing Policy, a copy of which will be provided to Otsego County and adopted herein by reference. (NOTE: Emmet County's fixed market rate agreement for paper and cardboard will expire at the end of 2015.) In the event that Otsego County's annual growth (in tons or in pulls) exceeds 10% in any year of this Agreement (after Year 3), Emmet County reserves the right to request an increase in the capped total amount to accommodate this exceptional growth.

Except as otherwise provided herein, Otsego County will pay to Emmet County the following capped rates for the hauling of recycled materials.

* * *

Year 3: $285 per bin pull to the capped total amount of $115,500 (formerly) revised to $132,320, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 4: $290 per bin pull to the capped total amount of $144,200, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 5: $295 per bin pull to the capped total amount of $156,400, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Year 6: $300 per bin pull to the capped total amount of $168,000, with Emmet County continuing to provide services at no additional charge to Otsego County once the capped amount is met.

Emmet County reserves the right to implement a fuel surcharge (Attachment C), assessed monthly, if the Department of Energy average Midwest on-road diesel fuel price exceeds $4.50 per gallon. Such surcharge will only be for the amount over $4.50 per gallon.

The cap amounts will be based on the total compensation paid by Otsego County in each category (hauling and processing). Otsego County's revenue share will be credited against each monthly invoice, resulting in a net lower cost paid by Otsego County each month. These net amounts will be used to determine if the cap amounts are reached. The fuel surcharges set forth in Attachment C, entitled "FUEL SURCHARGE TABLE," will not be applied to the cap amounts.

There will be no other costs assigned to Otsego County outside of those listed above; provided, however, that in the event that Otsego County's volume/bin pulls exceeds 10% in any year of this Agreement (after Year 3), Emmet County reserves the right to request an increase in the capped total amount to share in the program's success.

3. Otsego County acknowledges that it will be responsible to actively manage the capacity of the bins to minimize pull requests. Emmet County agrees to continue to work to provide additional service as needed to maintain the Gaylord site.

4. All of the other terms and conditions contained in the Agreement will remain in full force and effect and without change or modification except as expressly provided herein.

IN WITNESS WHEREOF, the parties have executed this Second Amendment on the date first written above.

COUNTY OF OTSEGO:

Attest:

_____ _____
John Burt, County Administrator

COUNTY OF EMMET:

Attest:

_____ _____
Juli Wallin, Clerk James E. Tamlyn, Chairperson
Emmet County Board of Commissioners