40MISC04

Original contract

AGREEMENT

April 24, 2007

7

Prepared for:

Jennings County, Indiana

To Provide:

WTH MapServer Web Hosting Agreement

WHERE TECHNOLOGY HAPPENS

• 567 W. Westfield Blvd. • Indianapolis, IN 46208 •
• Phone (317) 259-0105 • Fax (317) 259-1423 •
• www.wthtechnology.com •

WTH MAPSERVER
WEB HOSTING AGREEMENT

This Web Map Agreement (the "Agreement") is made by and between WTH Technology, Inc., with a principal place of business at 567 Westfield Blvd., W. Drive, Indianapolis, IN ("Company"), and the County Commissioners of Jennings County ("Client") with a principal mailing address of _____.

WHEREAS, the Client desires to put some of its electronic map information on a public website, and

WHEREAS, the Company has the capability to provide these services for Client,

The Parties agree to the following terms and conditions:

1. **Definitions**
   1.1. For the purpose of this agreement the following terms are defined as follows:

   1.2. "Internet" – A global network of computers using a common protocol for communicating with each other.

   1.3. "Web" or "World Wide Web" – An interface used to access web sites on the Internet.

   1.4. "Web Site" – A series of linked documents containing text, maps, and other content residing on a single host computer that is capable of being viewed by others.

   1.5. "WTH MapServer" – The Company supported version of open source and open standard (Open Geospatial Consortium compliant) software for displaying maps and related data on a Web Site.

   1.6. "Map Viewer" – The Client specific version of WTH MapServer that contains the maps and related data that Client wishes to be viewed on its Web Site.

   1.7. "Client Map Viewer Content" – The specific maps and related data provided by Client to Company for presentation on Client's Map Viewer.

2. **Map Viewer Hosting and Maintenance Services**
   2.1. Map Viewer Host Designation – The Client designates Company to host and maintain Client's Map Viewer.

   2.2. Map Viewer Creation – Company shall create a Client Map Viewer that can be linked to a Web Site selected by Client.

   2.3. Map Viewer Updating – Company shall provide Client with the technical means for Client to continuously update Client's Map Viewer Content.

   2.4. Map Viewer Backup – Company shall maintain a current backup of Client Map Viewer Content.

2.5. Server Speed and Storage Capacity – Company shall maintain provide enough server capacity to hold Client Map Viewer Content and have T-1 bandwidth speed.

2.6. Map Viewer Web Site Access – Company shall maintain the Client Map Viewer and link to Client's Web Site on a continuous 24 hour basis during the term of this Agreement.

2.7. Map Viewer Disclaimer – Client's Map Viewer shall contain a Disclaimer to protect the Client from over reliance by the general public or third party on the Client's Map Viewer Content being presented on the Web Site, a copy of which is made an Attachment A to this Agreement and incorporated by reference herein.

2.8. Client Map Viewer Content – The map layers and related data to be displayed on the Client's Map Viewer shall be approved by Client and are described in an Attachment B to this Agreement and incorporated by reference herein.

3. Custom Web Development Services

Web development services may include file conversion, web design, code development system integration, or other related services. If the Client requests or requires any web development services that go beyond the standard WTH MapServer hosting arrangement, Company and Client will mutually identify what services are needed, and Company will prepare a Proposal outlining both a scope of services and cost schedule. When a written Proposal has been accepted and executed by both parties, the Proposal shall be included as an Attachment C to this Agreement and incorporated by reference herein.

4. Price and Payment

In return for Company creating and hosting for Client a Map Viewer that can be linked to a public web site selected by Client, Client agrees to pay Company a hosting and maintenance fee of $300.00 a month, paid quarterly. The delivery and invoicing schedule is as follows:

	Delivery Date from Contract Signing	Description	Invoice Date	Amount
Delivery	60 days	Client Set Up Client Map Viewer	60 days	~~$4,800.00~~ 4500.00
Delivery	60 days	Custom Web Development	60 days	$ 0.00
Total Development Cost				~~$4,800.00~~ 4500.00
Map Viewer Hosting and Maintenance Fee (Quarterly Payment)[1]			60 Days	$ 900.00
Total Annual Hosting Fee				$ 3,600.00

1. Maintenance will be paid by the County Commissioners

5. Representations

5.1. Client Map Viewer Content is either owned by the Client, or the Client has the right from the owner to display Client Map Viewer Content on a Web Site. Client agrees that

the Client Map Viewer Content is not in violation of any Federal, State, or local law or regulation, or the rights of any third party.

5.2. Company shall provide Client with the technical means to update Client Map Viewer Content, but it will be the responsibility of the Client to update Client Map Viewer Content.

6. Limitations of Warranties and Liability

There is no warranty that the hosting of Client's Map Viewer will be uninterrupted or error free. If there is interruption or error in Client's hosted Map Viewer, Company shall be obligated to promptly notify the Client of the problem, propose a solution to Client, and with Client's approval correct the problem within a reasonable time at Company's expense.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, COMPANY DISCLAIMS ANY AND ALL EXPRESS WARRANTIES, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF MERCHANTABILITY. COMPANY WILL NOT BE LIABLE FOR ANY LOSS OF BUSINESS OR PROFITS, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR SIMILAR DAMAGES, OR, OTHER THAN AS SET FORTH IN THIS AGREEMENT, FOR CLAIMS OF DAMAGES MADE BY ANY THIRD PARTY FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY ACKNOWLEDGES THAT THIS LIMITATION OF LIABILITY REFLECTS AN INFORMED, VOLUNTARY ALLOCATION BETWEEN THE PARTIES OF THE RISKS (KNOWN AND UNKNOWN) THAT MAY EXIST IN CONNECTION WITH THIS AGREEMENT. IN NO EVENT WILL COMPANY'S LIABILITY EXCEED THE TOTAL PRICE, AS SET FORTH IN THIS AGREEMENT.

7. Term of Agreement

This the Agreement term will be begin on the delivery date of Client's Map Viewer (the date that the Map Viewer is linked to Client's Web Site) and remain in effect for a period of one year, and be automatically renewable on an annual basis, unless written notice is provided by Client to Company 90 days prior to the end of the current annual period.

8. Termination

Either Party may terminate this Agreement, with or without cause upon 90 days prior written notice to the other Party. Upon termination of this Agreement, Company agrees to continue hosting and Client agrees to pay for hosting service up through the end of the 90 day termination period.

9. General Terms

9.1. Assignment - This Agreement may not be assigned by either Party or by operation of law to any other person, firm, or entity without the express written approval by the other Party.

9.2. Amendments – This Agreement may be amended at any time, but any amendment must be in writing and signed by each Party to this Agreement.

9.3. Reasonable Performance - Either Party will be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent they act diligently to remedy the cause of the delay or failure.

9.4. Negotiated Agreement – This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties. This Agreement shall be construed and interpreted in a neutral manner.

9.5. Severability – If any term, provision, covenant, or condition of this agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

9.6. Entire Agreement – This Agreement, including any and all Attachments, contains the entire agreement between the Parties.

9.7. Governing Law - This Agreement shall be construed and enforced in accordance with the laws of the State of Indiana.

9.8. Counterparts – This Agreement may be exercised in any number of counterparts, each of which shall be deemed to be an original.

9.9. Force Majeure – Neither Party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the Party whose performance is affected.

9.10. Notices – All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, and other communication hereunder shall be deemed duly given if it is sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below or via the signature page of this document.

Contact:	Contract Administration	Contact:	
Company:	WTH Technology, Inc.	Client:	Jennings County, IN
		County:	Jennings County, Indiana
Address:	567 W. Westfield Blvd.	Address:	
City/State/Zip:	Indianapolis, IN 46208	City/State/Zip:	
Email:		Email:	
Phone:	(317) 259-0105	Phone:	
Fax:	(317) 259-1423	Fax:	

ATTACHMENT B
PUBLIC ELECTRONIC MAP INFORMATION

What follows is a listing of the layers of electronic map information currently available and selected by the County for viewing by the general public on the Map Viewer:

Selected Map Layers

	LAYER NAME	BRIEF DESCRIPTION
1.)	Topography	
2.)	County	
3.)	Townships	
4.)	Sections	
5.)	Water	
6.)	City Boundary	
7.)	Flood Plain	
8.)	Cemeteries	
9.)	Elec Companies	
10.)	Tif Districts	
11.)	Industrial Park	
12.)	Soils	
13.)	Roads	
14.)	Highway	
15.)	Addresses	
16.)	Towns	
17.)	Parcels	
18.)		
☆ 19.)	Property Record	
20.)	Cad Infor	
21.)		
22.)		
23.)		
24.)		
25.)		

☆ Most Important to have

ATTACHMENT A
MAP VIEWER DISCLAIMER

Disclaimer:

Information Accuracy: The information contained in this Map Viewer provides online access to geospatial information and related records. The information is presented on a best efforts basis and is for illustrative purposes only and should not be relied upon for making financial, legal or other commitments. The information contained in the Map Viewer is provided with the understanding that it is NOT guaranteed to be accurate, correct, current, or complete and conclusions drawn from such information are the responsibility of the user. While every reasonable effort has been made to ensure the accuracy, correctness, and timeliness of the geospatial information and related records, the creators and providers of this information assume no responsibility for errors or omissions. The foregoing warning is exclusive and in lieu of all other warranties of merchantability, fitness for particular purpose, and/or any other type whether expressed or implied.

Not a Substitute for a Field Survey: Although significant care has been exercised to produce geospatial information that satisfies mapping accuracy standards, it is only as accurate as the source from which it is compiled. The information included in the Map Viewer is intended to be advisory only and is NOT designed or intended to be used as a substitute for an accurate field survey, as performed by a Registered Land Surveyor, to determine precise property location.

Privacy Statement: The geospatial information and related records included in this Map Viewer are public records that are also available during normal business hours at the location of the public agency that is responsible for maintaining them.

Acceptance of Disclaimer:

By clicking on the AGREE button you agree to the rules and conditions of the disclaimer with the conditions established. You will then access the Map Viewer. By clicking on the DISAGREE button you decline and will not be able to access the Map Viewer and will be returned to the HOME PAGE of this Web Site.

Agree Disagree

WTH
WHERE TECHNOLOGY HAPPENS

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of this 3rd day of May 2007.

Company:
WTH Technology, Inc.

Signature: Rex E. Jones
Name: Rex Jones
Title: President
Date: 5-3-07

Client:
Jennings County, Indiana

Signature: Linda Kovacich
Name: Linda Kovacich
Title: County Assessor
Date: May 3, 2007

Signature: _____
Name: _____
Title: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Date: _____

WHERE TECHNOLOGY HAPPENS

• 567 W. Westfield Blvd. • Indianapolis, IN 46208 •
• **Phone (317) 259-0105 • Fax (317) 259-1423** •
• www.wthengineering.com •

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of this 3rd day of May 2007

Company:
WTH Technology, Inc.

Signature: _____

Name: Rex Jones

Title: President

Date: _____

Client:
Jennings County, Indiana

Signature: Linda Kovacich

Name: Linda Kovacich

Title: County Assessor

Date: May 3, 2007

Signature: _____

Name: Jim Reeves

Title: Co. Commissioner

Date: 5-14-07

Signature: _____

Name: Richard Schneider

Title: President Jenn. Co. Comm.

Date: 5-14-07

Signature: Robert R. Willhite

Name: Robert R. Willhite

Title: Co. Com.

Date: 5-14-07

WHERE TECHNOLOGY HAPPENS

• 567 W. Westfield Blvd. • Indianapolis, IN 46208 •
• Phone (317) 259-0105 • Fax (317) 259-1423 •
• www.wthengineering.com •