

COMMISSIONERS JOURNAL NO. 68 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD JANUARY 18, 2018

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
 Barb Lewis, Vice President
 Jeff Benton, Commissioner

Absent:
 Gary Merrell, President

1
 RESOLUTION NO. 18-42

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 11, 2018:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on January 11, 2018; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mr. Merrell Absent Mrs. Lewis Aye Mr. Benton Aye

2
 PUBLIC COMMENT

3
 ELECTED OFFICIAL COMMENT

George Kaitsa, County Auditor: For the 25th consecutive year, The Delaware County Auditor has been awarded the Certificate of Achievement for Excellence in Financial Reporting Award from The Government Finance Officers Association.

4
 RESOLUTION NO. 18-43

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0117:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0117 and Purchase Orders as listed below:

PR Number	Vendor Name	Description	Account	Amount	Line
R1800914	LAMB,ROBERT R	2018 MILEAGE REIMBURSEMENT	21011113 - 5309	\$ 500.00	0001
R1800914	LAMB,ROBERT R	2018 HOTEL, PARKING, MEALS, AIRFARE	21011113 - 5310	\$ 4,000.00	0002
R1800914	LAMB,ROBERT R	2018 REIMBURSEMENT FOR BUSINESS MEALS	21011116 - 5382	\$ 2,000.00	0003
R1800914	LAMB,ROBERT R	REFRESHMENTS	21011113 - 5294	\$ 900.00	0004
R1801239	COLUMBIA GAS OF OHIO	GAS SERVICE TO OECC AND CMF	66211903 - 5338	\$ 11,000.00	0001
R1801239	COLUMBIA GAS OF OHIO	GAS SERVICE TO ALUM CREEK PS	66211904 - 5338	\$ 2,000.00	0002
R1801239	COLUMBIA GAS OF OHIO	GAS SERVICE TO SCIOTO RESERVE	66211912 - 5338	\$ 2,000.00	0003
R1801243	PNC BANK	P-CARD PURCHASES	66211901 - 5200	\$ 20,000.00	0001
R1801243	PNC BANK	P-CARD PURCHASES	66211901 - 5300	\$ 10,000.00	0002
R1801244	PNC BANK	P-CARD PURCHASES - OECC	66211903 - 5200	\$ 8,000.00	0001

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R1801244	PNC BANK	P-CARD PURCHASES - OECC	66211903 - 5300	\$ 6,000.00	0002
R1801245	PNC BANK	P-CARD PURCHASES - ALUM CREEK	66211904 - 5200	\$ 20,000.00	0001
R1801245	PNC BANK	P-CARD PURCHASES - ALUM CREEK	66211904 - 5300	\$ 25,000.00	0002
R1801247	PNC BANK	P-CARD PURCHASE - PACKAGE PLANTS	66211912 - 5200	\$ 2,500.00	0001
R1801247	PNC BANK	P-CARD PURCHASES - PACKAGE	66211912 - 5300	\$ 75,000.00	0002
R1801248	TREASURER,STATE OF OHIO	NPDES - OECC	66211903 - 5316	\$ 5,200.00	0001
R1801248	TREASURER,STATE OF OHIO	NPDES - ALUM CREEK	66211904 - 5316	\$ 5,200.00	0002
R1801248	TREASURER,STATE OF OHIO	NPDES - SCIOTO HILLS	66211912 - 5316	\$ 200.00	0003
R1801248	TREASURER,STATE OF OHIO	NPDES - HOOVER WOODS	66211912 - 5316	\$ 200.00	0004
R1801255	MI HOMES OF CENTRAL OHIO LLC	RETURN OF UNUSED INSPECTION FEES FOR CLARKSHAW	66211902 - 5319	\$ 25,973.25	0001
R1801257	EVANS FARM LAND	WEST SANITARY EXTENSION	66211902 - 5319	\$ 12,650.75	0001
R1801263	DELAWARE MOTIVE PARTS INC	VEHICLE SUPPLIES - RSD	66211901 - 5228	\$ 1,000.00	0001
R1801263	DELAWARE MOTIVE PARTS INC	OPERATING SUPPLIES - OECC	66211903 - 5201	\$ 2,000.00	0002
R1801263	DELAWARE MOTIVE PARTS INC	OPERATING SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 2,000.00	0003
R1801263	DELAWARE MOTIVE PARTS INC	OPERATING SUPPLIES - LOWER SCIOTO	66211905 - 5201	\$ 100.00	0004
R1801263	DELAWARE MOTIVE PARTS INC	OPERATING SUPPLIES - PACKAGE PLANT	66211912 - 5201	\$ 600.00	0005
R1801264	FASTENAL CO	OPERATING SUPPLIES - RSD	66211901 - 5201	\$ 7,200.00	0001
R1801264	FASTENAL CO	OPERATING SUPPLIES - OECC	66211903 - 5201	\$ 3,000.00	0002
R1801264	FASTENAL CO	OPERATING SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 7,000.00	0003
R1801269	FACILITIES	VEHICLE FUEL AND SUPPLIES	66211901 - 5228	\$110,000.00	0001
R1801269	FACILITIES	VEHICLE REPAIRS	66211901 - 5328	\$ 6,000.00	0002
R1801273	EVOQUA WATER TECHNOLOGIES LLC	BIOXIDE	66211903 - 5290	\$125,000.00	0001
R1801273	EVOQUA WATER TECHNOLOGIES LLC	BIOXIDE	66211904 - 5290	\$150,000.00	0002
R1801273	EVOQUA WATER TECHNOLOGIES LLC	BIOXIDE	66211905 - 5290	\$ 15,000.00	0003
R1801273	EVOQUA WATER TECHNOLOGIES LLC	BIOXIDE	66211912 - 5290	\$ 34,000.00	0004
R1801277	GRAINGER INC	OPERATING SUPPLIES - RSD	66211901 - 5201	\$ 4,500.00	0001
R1801277	GRAINGER INC	PPE - BOOTS - CLOTHING	66211901 - 5225	\$ 12,000.00	0002
R1801277	GRAINGER INC	OPERATING SUPPLIES - OECC	66211903 - 5201	\$ 5,500.00	0003
R1801281	HACH CO	FLOW METER REPAIRS	66211901 - 5328	\$ 5,000.00	0001
R1801281	HACH CO	LAB SUPPLIES - OECC	66211903 - 5201	\$ 3,000.00	0002
R1801281	HACH CO	D.O. AND P.H. PROBES - LOWER SCIOTO	66211905 - 5260	\$ 8,200.00	0003
R1801291	JANTON CO	JANITORIAL SUPPLIES - OECC	66211903 - 5201	\$ 4,000.00	0001
R1801291	JANTON CO	JANITORIAL SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 6,500.00	0002
R1801291	JANTON CO	JANITORIAL SUPPLIES - LOWER SCIOTO	66211905 - 5201	\$ 1,000.00	0003

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R1801291	JANTON CO	JANITORIAL SUPPLIES - PACKAGE PLANTS	66211912 - 5201	\$ 500.00	0004
R1801294	LEVEL 3 FINANCING INC	PHONE INTERNET - OECC	66211903 - 5330	\$ 6,000.00	0001
R1801294	LEVEL 3 FINANCING INC	PHONE INTERNET - ALUM CREEK	66211904 - 5330	\$ 6,000.00	0002
R1801297	MIAMI PRODUCTS & CHEMICAL CO	CHEMICALS - CALCIUM HYPOCHLORITE	66211903 - 5290	\$ 3,000.00	0001
R1801297	MIAMI PRODUCTS & CHEMICAL CO	CHEMICALS - CALCIUM HYPOCHLORITE	66211904 - 5290	\$ 5,000.00	0002
R1801299	NCL OF WISCONSIN INC	LAB SUPPLIES - OECC	66211903 - 5201	\$ 6,500.00	0001
R1801299	NCL OF WISCONSIN INC	LAB SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 6,000.00	0002
R1801307	OHIO EDISON CO	ELECTRIC - LOWER SCIOTO	66211905 - 5338	\$ 75,000.00	0001
R1801307	OHIO EDISON CO	ELECTRIC - TARTAN	66211912 - 5338	\$ 40,000.00	0002
R1801313	POLYDYNE INC	POLYMER - OECC	66211903 - 5290	\$ 60,000.00	0001
R1801313	POLYDYNE INC	POLYMER - ALUM CREEK	66211904 - 5290	\$ 30,000.00	0002
R1801348	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - RSD	66211901 - 5201	\$ 1,000.00	0001
R1801348	TRACTOR SUPPLY COMPANY	PPE - CLOTHING	66211901 - 5225	\$ 2,500.00	0002
R1801348	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - OECC	66211903 - 5201	\$ 500.00	0003
R1801348	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 500.00	0004
R1801348	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - LOWER SCIOTO	66211905 - 5201	\$ 300.00	0005
R1801348	TRACTOR SUPPLY COMPANY	OPERATING SUPPLIES - PACKAGE PLANTS	66211912 - 5201	\$ 300.00	0006
R1801351	SANTEK ENVIRONMENTAL INC	SLUDGE DISPOSAL	66211901 - 5380	\$135,000.00	0001
R1801362	HD SUPPLY FACILITIES MAINT LTD	OPERATING SUPPLIES - OECC	66211903 - 5201	\$ 4,000.00	0001
R1801362	HD SUPPLY FACILITIES MAINT LTD	OPERATING SUPPLIES - ALUM CREEK	66211904 - 5201	\$ 1,000.00	0002
R1801362	HD SUPPLY FACILITIES MAINT LTD	OPERATING SUPPLIES - LOWER SCIOTO	66211905 - 5201	\$ 3,000.00	0003
R1801362	HD SUPPLY FACILITIES MAINT LTD	OPERATING SUPPLIES - PACKAGE PLANTS	66211912 - 5201	\$ 3,000.00	0004
R1801366	VERIZON	AIR CARDS - RSD	66211901 - 5315	\$ 4,400.00	0001
R1801366	VERIZON	CELL PHONE SERVICE - RSD	66211901 - 5330	\$ 20,000.00	0002
R1801376	XYLEM WATER SOLUTIONS USA INC	EQUIPMENT PARTS - OECC	66211903 - 5201	\$ 10,000.00	0001
R1801376	XYLEM WATER SOLUTIONS USA INC	NEW EQUIPMENT - OECC	66211903 - 5260	\$ 10,000.00	0002
R1801376	XYLEM WATER SOLUTIONS USA INC	EQUIPMENT PARTS - ALUM CREEK	66211904 - 5201	\$ 10,000.00	0003
R1801376	XYLEM WATER SOLUTIONS USA INC	NEW EQUIPMENT - ALUM CREEK	66211904 - 5260	\$ 10,000.00	0004
R1801386	HYDRO CONTROLS INC	HYDRO GATE EQUIPMENT	66211903 - 5260	\$ 9,000.00	0001
R1801413	SUPERION LLC	DEVELOPMENT REVIEW SOFTWARE - CODE COMPLIANCE	41711436 - 5452	\$257,220.00	0001
R1801414	SHREMSHOCK ARCHITECTS INC	JAIL - BODY SCANNER BOOKING PROJECT	41711436 - 5410	\$ 19,492.00	0001
R1801422	SUPERION LLC	DEVELOPMENT REVIEW SOFTWARE - 15 USERS	66211902 - 5452	\$192,915.00	0001

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R1801423	MID OHIO DEVELOPMENT EXCHANGE	MODE 2018 MEMBERSHIP DUES	21011113 - 5308	\$ 20,051.00	0001
R1801428	COMMERCIAL EXPRESS BUILDING	JANITORIAL SERVICES	10011105 - 5325	\$ 55,000.00	0001
R1801505	LEO MEYERS UNIFORMS INC	EMS UNIFORM PURCHASE	10011303 - 5225	\$ 20,000.00	0001
R1801511	SELLERS ELECTRIC CO INC	VEHICLE	60111901 - 5370	\$ 5,800.00	0001
R1801521	COUNTY RISK SHARING AUTHORITY	DEDUCTIBLE CLAIM DATE 04.11.2016	60111901 - 5370	\$100,000.00	0001
R1801526	HILBORN INSURANCE	BOND RENEWALS	60111901 - 5370	\$ 7,500.00	0001
R1801530	TREASURER, DELAWARE COUNTY	PROPERTY TAX NEW COURTHOUSE	10011102 - 5380	\$159,971.98	0001
R1801536	SCHILLING PROPANE SVS	PROPANE PURCHASES	10011303 - 5338	\$ 10,000.00	0001
R1801543	CONSOLIDATED ELECTRIC COOPERATIVE INC	ELECTRIC -- MEDIC STATIONS	10011303 - 5338	\$ 8,000.00	0001

Vote on Motion Mrs. Lewis Aye Mr. Merrell Absent Mr. Benton Aye

**5
RESOLUTION NO. 18-44**

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

The Adult Court Service Department is requesting that Erin Rohrer attend an Ohio Peace Officer Training Academy- Bulletproof Mind class in London, Ohio on February 9, 2018 at the cost of \$175.00 (fund number 25622303).

The Regional Sewer District is requesting that Mark Chandler and Cory Smith attend an OWEA Plant Operations Committee Workshop in Columbus, Ohio on January 23rd, 2018 at no cost.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

**6
RESOLUTION NO. 18-45**

IN THE MATTER OF ACCEPTING AND APPROVING THE DELAWARE COUNTY SHERIFF'S OFFICE TRANSPORT REPORT FOR THE MONTH OF DECEMBER 2017:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, section 325.07 of the Revised Code requires the County Sheriff to submit monthly expense reports to the Board of County Commissioners; and

WHEREAS, the Delaware County Sheriff has submitted a monthly report for December 2017;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby accepts and approves the Delaware County Sheriff's Office Transport Report for the month of December 2017.

Section 2. The Board hereby allows the expenses contained in the monthly report.

(Copy available for review at the Commissioners' Office until no longer of administrative value.)

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

**7
RESOLUTION NO. 18-46**

IN THE MATTER OF APPROVING A LEADS (LAW ENFORCEMENT AUTOMATED DATA SYSTEM) INFORMATION EXCHANGE AGREEMENT BETWEEN THE DELAWARE COUNTY EMERGENCY COMMUNICATIONS AND THE CITY OF DELAWARE POLICE DEPARTMENT:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

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Whereas, the 911 Communications Director recommends the approval of a LEADS Information Exchange Agreement between the Delaware County Emergency Communications and the City of Delaware Police Department;

Therefore Be it Resolved, the Board of Commissioners of Delaware County, State of Ohio, approves the LEADS Information Exchange Agreement with the City of Delaware Police Department as follows:

LEADS Information Exchange Agreement

This agreement (the "Agreement") is entered into on the - day of 18th day of January, 2018 (the "Effective Date") by and between the Delaware County Emergency Communications (the "9-1-1 Center") and the City Of Delaware Police Department (the "Receiving Party").

WHEREAS, the Receiving Party desires to receive from the 9-1-1 Center certain criminal justice information and other information located within the Law Enforcement Automated Data System upon request by the Receiving Party from time to time; and

WHEREAS, the 9-1-1 Center desires to provide such information to the Receiving Party pursuant to the terms and conditions set forth in this Agreement.

NOW THEREFORE the parties agree to the following:

Section 1 Definitions

a. "Applicable Laws" means all federal, state and local statutes, laws, rules, regulations, ordinances, judicial and court rules, and all operating manuals, policy manuals, user agreements and other published materials related to the access, collection, storage, use, dissemination and release of CJI from LEADS, including, without limitation, Ohio Revised Code Sections 5503.10 and 2913.04(C), Ohio Administrative Code Chapter 4501:2-10, LEADS Operating Manual, LEADS Security Policy, NCIC Operating Manual and LEADS administrative messages, newsletters and training materials, including any and all amendments, modifications, updates or additions to any or all of the foregoing.

b. "CJA" means a criminal justice agency, as defined in the LEADS Security Policy and the Ohio Administrative Code in effect at the time this agreement is executed.

c. "CJI" means criminal justice information, as defined in the LEADS Security Policy and the Ohio Administrative Code in effect at the time this agreement is executed.

d. "LEADS" means the Law Enforcement Automated Data System, which is the statewide computerized network providing data and communications for criminal justice agencies within the State of Ohio administered by the Ohio State Highway Patrol.

e. "LEADS Operating Manual" means that certain Law Enforcement Automated Data System Operating Manual, as the same may be amended, modified and updated from time to time.

f. "LEADS Security Policy" means that certain Law Enforcement Automated Data System Security Policy, as the same may be amended, modified and updated from time to time.

"NCIC Operating Manual" means that certain National Crime Information Center Operating Manual, as the same may be amended, modified and updated from time to time.

Section 2: Term

This Agreement shall take immediate effect upon approval by all Parties and shall continue in full force and effect for one (1) year, and it shall automatically renew on a yearly basis. This Agreement may only be amended in writing with the mutual consent and agreement of the Parties. Either party may terminate this Contract at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to the other.

Section 3: Purpose

The 9-1-1 Center agrees to provide to the Receiving Party any CH and other information from LEADS requested by an authorized agent, employee or representative of the Receiving Party.

Section 4: Representations and Warranties

The Receiving Party represents and. Warrants the following: (a) the Receiving Party is a CJA and is authorized pursuant to all Applicable Laws to receive CH and other information from LEADS; (b) the Receiving Party is not in violation of any Applicable Laws as of the Effective Date; and (c) the Receiving Party will remain in compliance with all Applicable Laws during the term of this Agreement.

Section 5: Obligations of the Receiving Party

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The Receiving Party agrees that it will do all of the following:

Section 5.1: Use of System: Request, access and use CH and information obtained from LEADS for official criminal justice purposes only and for no other purposes.

Section 5.2: Dissemination: Perform any secondary dissemination of CM or information obtained from LEADS in accordance with all Applicable Laws.

Section 5.3: Record Keeping: Maintain records regarding Receiving Party's use and dissemination of CJJ.

Section 5.4: Training: Ensure all employees, agents and representatives of Receiving Party having access to CH and information obtained from LEADS receive proper initial and ongoing training and maintain a record of all such persons receiving training, including the date, time and subject matter of the training.

Section 5.5: Security: Limit access to CH and information obtained from LEADS to authorized employees, agents and representatives of Receiving Party, except in situations where dissemination is permitted or required by Applicable Laws, and destroy all hard copy printouts of CH and other information obtained from LEADS promptly upon the Receiving Party's reasonable determination that such information is no longer needed by the Receiving Party and in accordance with law and the CJA's record retention schedule.

Section 6: Auditing

The 9-1-1 Center and the LEADS staff shall each have access to records as are reasonably necessary and permitted by Applicable Laws to audit all logs and records pertaining to CH obtained from LEADS to determine whether Receiving Party is operating in compliance with the terms of this Agreement and all Applicable Laws.

Section 7: Legal Contingencies

In the event a change in law, whether by statute, judicial determination, or administrative action, affects this Agreement or the ability of the Parties to enter into, or continue to operate pursuant to, this Agreement, the Parties mutually agree to immediately institute a review of this Agreement. The Parties agree to negotiate in good faith to address any necessary modifications to this Agreement, to the extent permitted by applicable law.

Section 8: Miscellaneous Terms & Conditions

Section 8.1: Entire Agreement: This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.

Section 8.2: Governing Law and Disputes: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.

Section 8.3: Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

Section 8.4: Drafting, Counterparts, and Signatures: This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary. This Contract may be executed in counterparts. Any person executing this Contract in a representative capacity hereby warrants that he/she has authority to sign this Contract or has been duly authorized by his/her principal to execute this Contract on such principal's behalf and is authorized to bind such principal.

Section 8.5: Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

Section 8.6: Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.

Section 8.7: Notices: Any notices provided regarding this Agreement shall be effective if delivered via hand delivery, USPS, a reputable national overnight courier service, or email to the other party at the address listed below the party's signature to this Agreement.

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Section 8.8: **Consideration:** The parties agree that the services performed/provided and/or deliverables provided/received pursuant to this Agreement are good and valuable consideration and that this Agreement is supported by sufficient good and valuable consideration. The Parties agree not to challenge this Agreement on the basis of a lack of consideration.

Vote on Motion Mr. Merrell Absent Mr. Benton Aye Mrs. Lewis Aye

**8
RESOLUTION NO. 18-47**

IN THE MATTER OF APPROVING THE AGREEMENT BY AND BETWEEN THE BOARD OF DELAWARE COUNTY COMMISSIONERS, THE DELAWARE COUNTY PROSECUTING ATTORNEY AND THOMPSON REUTERS WEST PUBLISHING CORPORATION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

- ADDENDUM NO. 1 TO:**
- 1) **THOMSON REUTERS ORDER FORM – Q-00117559;**
 - 2) **THOMSON REUTERS LEGAL PRODUCTS AND PROFESSIONAL SERVICE GENERAL TERMS AND CONDITIONS;**
 - 3) **PRODUCT SPECIFIC TERMS - WEST LEGALEDCENTER; AND**
 - 4) **PLAN 2 WESTLAWPRO FOR STATE AND LOCAL GOVERNMENT AGENCIES AND COURTS —GOVERNMENT SERVICE**

This First Addendum to: 1) Thomson Reuters Order Form – Q-00117559; 2) Thomson Reuters Legal Products And Professional Service General Terms And Conditions; 3) Product Specific Terms - West LegalEdcenter; and 4) Plan 2 WestlawPRO for State and Local Government Agencies and Courts —Government Service (“First Addendum”) is entered into this 18th day of January, 2018 by and between West, a Thomson Reuters business (“West”), whose principal place of business is located at 610 Opperman Drive, St. Paul, Minnesota 55164-1803, the Board of Commissioners, Delaware County, Ohio (“Board”), whose principal place of business is located at 101 North Sandusky Street, Delaware, Ohio 43015, and the Prosecuting Attorney, Delaware, County, Ohio (“Prosecutor”), whose principal place of business is located at 140 North Sandusky Street, 3rd Floor, Delaware, Ohio 43015 (Board and Prosecutor collectively “Subscriber”)(West and Subscriber individually, “Party” and collectively, “Parties”).

WHEREAS, the Parties entered into an Order Form known as Thomson Reuters Order Form – Q-00117559 (“Order Form”) dated _____, 2017. By incorporation, the Professional Service General Terms And Conditions (“Agreement”), Plan 2 WestlawPRO for State and Local Government Agencies and Courts —Government Service (“Plan 2”), and Product Specific Terms - West LegalEdcenter (“LegalEdcenter Agreement”) were made a part of the Order Form (collectively all above documents are known hereinafter as the “Contracts”); and,

WHEREAS, the Parties agree to change certain provisions of the Contracts (collectively “Changes”); and,

WHEREAS, the Parties also agree to the addition of certain provisions to the Contracts (collectively “Provisions”).

NOW THEREFORE, the Parties agree as follows:

1. The Parties agree to amend the Agreement to make the following Changes:

The following clause for termination is added to those listed in Section 13:

“(h) the Subscriber may terminate these Contracts if Subscriber fails to receive sufficient appropriation of funds necessary to satisfy its obligations under these Contracts. The Subscriber shall immediately notify West in writing of such event and specify the date upon which the Contracts will terminate, which shall be no less than thirty (30) days. West shall be entitled to receive compensation for any services satisfactorily performed hereunder through the date specified on the notice as the effective date for such termination. Subscriber shall include a written statement documenting the reason for cancellation, including the relevant statutory authority for canceling and an official document certifying the non-availability of funds.”

2. The Parties agree to supplement the Order Form by the addition of the following:

- A. The “Additional Signature Page” in its entirety is by this reference hereby incorporated into and made a part of the Order Form.

3. The Parties agree to amend the Agreement to add the following Provisions:

- A. **Maximum Payment.** West agrees to accept as full payment for the services/deliverables provided pursuant to these Contracts, all rendered in a manner satisfactory to the Subscriber, the lesser of the following: (1) The maximum amount of _____ Dollars and _____ Cents (\$ _____) or (2) the amount of actual expenditures accrued by the Subscriber, including all Excluded Charges.

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- B. Invoice.** Compensation shall be paid upon submission by West of a proper written invoice to the Prosecutor, inclusive of all Excluded Charges. The submitted invoice shall be approved by the Prosecutor prior to payment.

A proper invoice shall be on West letterhead or a West invoicing statement clearly listing the word "Invoice" and include a sequential invoice number. Invoices shall be dated and list the proper name and address for West and include contact information for questions about the invoice. Invoices shall be itemized, show a detail of all services provided, including the date or date range when the services were provided, cost breakdown, and the total amount due.

The Subscriber shall pay invoices within thirty (30) days of receipt of a proper invoice. The date of the warrant issued in payment shall be considered the date payment is made.

Payment shall be made only after a proper invoice is received. Payment shall not be initiated by the Subscriber before a proper invoice is received. Defective invoices shall be returned to West noting areas for correction. When such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

- C. Authority.** The Board and Prosecutor are authorized by, including, but not limited to, R.C. § 307.51 to enter these Contracts.

- D. Indemnification.** West shall provide indemnification as follows:

- i. To the fullest extent of the law and without limitation, West agrees to indemnify and hold free and harmless the Subscriber and all of their respective boards, officers, officials, employees, volunteers, agents, servants and representatives (collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to West's performance of these Contracts or West's actions, inactions, or omissions including, but not limited to, the performance, actions, inactions, or omissions of any of West's boards, officers, officials, employees, volunteers, agents, servants and representatives. West agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that West shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney's fees, costs, and expenses. West further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that West shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, and expenses, including, but not limited to attorney's fees.
- ii. West shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of West or West's boards, officers, officials, employees, volunteers, agents, servants and representatives.

- E. Insurance.** West shall carry and maintain throughout the life of the Contracts such bodily injury and property damage liability insurance as will protect it and the Indemnified Parties against any and all claims for personal injury, including death, or property damage, which may arise out of or result from the performance of or operations under these Contracts or from the use of any vehicle(s) in connection therewith, and shall include coverage for indemnification as described above.

Prior to commencement of these Contracts, West shall present to the Subscriber current certificates of insurance, and shall maintain current such insurance during and throughout the entire term of these Contracts. Said insurance shall, at a minimum, be of a type which is customary in the industry and shall provide coverage in an amount that is both customary in the industry and equal to and covering all sums which West may or shall become legally obligated to pay as damages. West shall be responsible for any and all premiums for such policy(ies).

In addition to the rights and protections provided by the insurance policies as required above, the Subscriber shall retain any and all such other and further rights and remedies as are available at law or in equity.

- F. Worker's Compensation Insurance.** West shall carry and maintain throughout the life of the Contracts Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed. West shall be responsible for any and all premiums for such policy(ies).

- G. Independent Contractor/No Contribution to OPERS.** West agrees that it is an independent contractor and shall act in performance of these Contracts as an independent contractor. No agency, employment, joint

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venture, or partnership has been or will be created between the Parties pursuant to the terms and conditions of these Contracts. As an independent contractor, West and/or its boards, officers, officials, employees, consultants, representatives, agents, volunteers and/or servants are not entitled to any of the benefits enjoyed by employees of the Subscriber or Delaware County, Ohio. West assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder.

Subscriber is a public employer as defined in R.C. § 145.01(D). Subscriber has classified West as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of West and/or any of its officers, officials, employees, representatives, agents, and/or volunteers for services and/or deliverables rendered and/or received under or pursuant to these Contracts. West acknowledges and agrees that the Subscriber, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If West has less than five (5) employees, West, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of his/her employees complete an OPERS Independent Contractor Acknowledgement Form (“Form”) attached to this Agreement as Exhibit A and by this reference made a part of this First Addendum.

If WEST has five (5) or more employees, WEST, by his/her signature below hereby certifies such fact in lieu of completing the Form:

Signature	Date
Title	

H. Campaign Finance – Compliance with O.R.C. § 3517.13. R.C. § 3517.13 I(3) and J(3) requires that no political subdivision shall award any contract for the purchase of goods with a cost aggregating more than ten thousand dollars in a calendar year or services with a cost aggregating more than ten thousand dollars in a calendar year to a corporation, business trust, individual, partnership or other unincorporated business, association, including, without limitation, a professional association organized under Chapter 1785 of the Revised Code, estate, or trust unless the political subdivision has received for that calendar year, or the contract includes, a certification that the individuals named in said sections of the Revised Code are in compliance with the applicable provisions of section 3517.13 of the Revised Code. West, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13.” Failure to complete and submit the required aforementioned certificate/affidavit with the Contracts will prohibit the Subscriber from entering, proceeding with, and/or performing the Contracts. Such certification is attached to this First Addendum as Exhibit B and by this reference made a part of this First Addendum.

I. Findings for Recovery. West, by signature of its authorized representative below, hereby certifies that it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.

Signature	Date
Title	

J. Notices. All notices, consents, and/or other communications which may or are required to be given by the Contracts or by operation of law, shall be in writing and shall be deemed duly given if personally (hand) delivered, sent by certified or registered United States Mail, return receipt requested, sent via nationally recognized and reputable overnight express courier, return receipt requested, or via email, confirmation of delivery, to the following individuals at the following addresses and shall be effective when sent or transmitted:

Subscriber:

Nicole Ford
Office Manager
Delaware County Prosecuting Attorney’s Office
140 North Sandusky Street, 3rd Floor
Delaware, Ohio 43015
Email: nford@co.delaware.oh.us

West:

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Email: _____

- K. Civil Rights.** West agrees that as a condition of these Contracts, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, sexual orientation, or any other factor as specified in Title VI of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments. It is further agreed that West will comply with any and all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under these Contracts. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of these Contracts.
- L. Accessibility to Disabled/Handicapped.** West agrees as a condition of these Contracts to make all services provided pursuant to these Contracts accessible to the disabled/handicapped. West further agrees as a condition of this Contract to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), all requirements imposed by the applicable HHS regulations (45 CFR 8;4) and all guidelines and interpretations issued pursuant thereto. Any agency found to be out of compliance with this paragraph may be subject to investigation by the Office of Civil Rights of the Department of Health and Human Services and termination of these Contracts.
- M. Drug Free Environment.** West agrees to comply with all applicable state and federal laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. West shall make a good faith effort to ensure that all of its employees will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- N. Signatures.** Any person executing these Contracts in a representative capacity hereby warrants that he/she has authority to sign these Contracts or has been duly authorized by his/her principal to execute these Contracts on such principal's behalf.
- O. Retention of Records.** West shall retain and maintain and assure that all of its subcontractors retain and maintain for a minimum of three (3) years after reimbursement/compensation for services rendered under this Contract all books, records, documents, papers, subcontracts, invoices, receipts, payrolls, personnel records, enrollees records, reports, documents and all other information or data relating to all matters covered by this Contract. If an audit, litigation, or other action is initiated during the time period of this Contract or the retention period, West shall retain and maintain, and assure that all of its subcontractors retain and maintain, such records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever is later.
- P. Severability.** The provisions of these Contracts are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.
- Q. Waiver.** No waiver of breach of any provision of these Contracts shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of these Contracts or any other provision hereof. No term or provision of these Contracts shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- R. Headings.** The subject headings of the paragraphs in these Contracts are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. These Contracts shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.
- S. Entire Agreement.** These Contracts inclusive of this First Addendum shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to this subject matter.
- T. Counterparts.** These Contracts may be executed in counterparts.
- U. Competitive Bidding Not Required.** Consistent with R.C. § 307.86 and the requirements of such statute, this agreement is not required to be competitively bid.
- V. Subcontracting.** West may subcontract for the services provided under these Contracts without the prior written consent of the Subscriber. If services are subcontracted, West shall continue to act as the prime

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contractor for all subcontracted services and shall assume full responsibility for the performance of these Contracts.

4. Conflicts - In the event of a conflict between the terms of the Contracts and this First Addendum, the terms of this First Addendum shall prevail.

5. Terms of Contract Unchanged - All terms and conditions of the Contracts not changed by this First Addendum remain the same, unchanged, and in full force and effect.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Absent

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RESOLUTION NO. 18-48

IN THE MATTER OF ACCEPTING SANITARY SEWER IMPROVEMENTS FOR THE CORNERS AT JOHNNY CAKES, LIBERTY TRACE SECTION 2 PHASE 2, VILLAGE AT OLENTANGY CROSSING PHASE 5, AND ZUMSTEIN NORTH :

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, the construction of new sanitary sewers at the The Corners at Johnny Cakes, Liberty Trace Section 2 Phase 2, Village at Olentangy Crossing Phase 5, and Zumstein North have been completed to meet Delaware County Sewer District requirements; and

Whereas, the Sewer District has received the necessary items required by the Subdivider’s Agreement; and

Whereas, the Sanitary Engineer recommends accepting sanitary sewers for ownership, operation, and maintenance by Delaware County as follows:

The Corners At Johnny Cakes	2040’ of 8- inch sewer	\$158,585.00
	10- manholes	\$ 39,500.00
Liberty Trace Section 2, Phase 2	1221’ of 8-inch sewer	\$88,973.85
	6- manholes	\$19,708.09
Village At Olentangy Crossing Phase 5	120’ of 8-inch sewer	\$21,905.00
	1-manhole	\$1457.32
Zumstein North	150’ of 18-inch sewer	\$40,365.00
	2-manholes	\$25,338.00

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby approves and accepts the above sanitary sewer improvements for ownership, operation, and maintenance by the Delaware County Sewer District.

Section 2. The Board hereby releases any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed to insure faithful performance for construction of the above sanitary sewer improvements, if applicable.

Section 3. The Board hereby accepts any Bond, certified check, irrevocable letter of credit, or other approved financial warranties executed per the requirements of the subdivider’s agreement for the five-year maintenance period for the above sanitary sewer improvements.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

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RESOLUTION NO. 18-49

IN THE MATTER OF APPROVING SANITARY SEWER SUBDIVIDER’S AGREEMENTS FOR THE COTTAGES OF NORTHLAKE WOODS SOUTH, THE COURTYARDS AT MUIRFIELD RIDGE, AND NORTH FARMS SECTION 5 AND SECTION 7 PHASE B:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Sanitary Engineer recommends approval of the Sanitary Subdivider’s Agreements;

THEREFORE, BE IT RESOLVED that the Board of Commissioners approve the following Sanitary Sewer Subdivider’s Agreements for The Cottages of Northlake Woods South, The Courtyards at Muirfield Ridge, and North Farms Section 5 and Section 7 Phase B.

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SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 18th day of January 2018, by and between **Schottenstein Homes, LLC**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **Cottages of Northlake Woods South** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for south part of **Sanitary Sewer Improvement Plan Cottages at Northlake Woods North & South**, dated **August 2, 2017**, and approved by the County on **August 31, 2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **57** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$96,322.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for the south part of **Sanitary Sewer Improvement Plan Cottages at Northlake Woods North & South**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of south part of **Sanitary Sewer Improvement Plan Cottages at Northlake Woods North & South (\$3371.27)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$8,175.00** estimated to be necessary to pay the cost of inspection for the south part of **Cottages at Northlake Woods North & South** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

INSPECTOR \$75.00 per hour
CAMERA TRUCK \$150.00 per hour

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an

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additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for the south part of **Sanitary Sewer Improvement Cottages of Northlake Woods North & South** as required by the County.

SECTION V: CONSTRUCTION

All public improvement construction shall be performed within one (1) year from the date of the approval of this Agreement by the County Commissioners, but extension of time may be granted if approved by the County Commissioners.

The Subdivider shall indemnify and save harmless the County, Townships, Cities, and/or Villages and all of their officials, employees, and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the Subdivider, and any of its contractors or sub-contractors, or from any material, method, or explosive used in the Work, or by or on account of any accident caused by negligence, or any other act or omission of the Subdivider, and any of its contractors or the contractors' agents or employees in connection with the Work.

The Subdivider shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the County. The representative shall be replaced by the Subdivider when, in the opinion of the County, the representative's performance is deemed inadequate.

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

The Subdivider shall, during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the County regarding submission of shop drawings, construction schedules, operation of facilities, and other matters incident to the construction and operation of the Improvements.

The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

SECTION VI: EASEMENTS

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

SECTION VII: COMPLETION OF CONSTRUCTION

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies

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(one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.

- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

The Subdivider, for a period of five (5) years after acceptance of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements.

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer.

SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

SUBDIVIDER'S AGREEMENT DELAWARE COUNTY SANITARY ENGINEER

SECTION I: INTRODUCTION

This Agreement is entered into on this 18th day of January 2018, by and between **Epcon Muirfield, LLC**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **Sanitary Sewer Improvement Plan for Courtyards at Muirfield Ridge** plan, and the corresponding condominium amendment on said development parcel filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **Sanitary Sewer Improvement Plan for Courtyards at Muirfield Ridge**, dated **September 14, 2017**, and approved by the County on **December 28, 2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **61** single family residential equivalent connections approved with this Agreement. Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

The Improvements include a connection for a clubhouse, which will require a Commercial Tap Fee Form be submitted to the County. The number of residential equivalent connections will be determined following submittal of this form.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$294,436.00**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved

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financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **Sanitary Sewer Improvement Plan for Courtyards at Muirfield Ridge**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Sewer Improvement Plan for Courtyards at Muirfield Ridge (\$10,305.26)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$24,975.00** estimated to be necessary to pay the cost of inspection for **Courtyards at Muirfield Ridge** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

INSPECTOR \$75.00 per hour
CAMERA TRUCK \$150.00 per hour

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **Sanitary Sewer Improvement Plan for Courtyards at Muirfield Ridge** as required by the County.

SECTION V: CONSTRUCTION

All public improvement construction shall be performed within one (1) year from the date of the approval of this Agreement by the County Commissioners, but extension of time may be granted if approved by the County Commissioners.

The Subdivider shall indemnify and save harmless the County, Townships, Cities, and/or Villages and all of their officials, employees, and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the Subdivider, and any of its contractors or sub-contractors, or from any material, method, or explosive used in the Work, or by or on account of any accident caused by negligence, or any other act or omission of the Subdivider, and any of its contractors or the contractors' agents or employees in connection with the Work.

The Subdivider shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the County. The representative shall be replaced by the Subdivider when, in the opinion of the County, the representative's performance is deemed inadequate.

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

The Subdivider shall, during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the County regarding submission of shop drawings, construction schedules, operation of facilities, and other matters incident to the construction and operation of the Improvements.

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The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

SECTION VI: EASEMENTS

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

SECTION VII: COMPLETION OF CONSTRUCTION

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format.
- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

The Subdivider, for a period of five (5) years after acceptance of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements.

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer.

SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

**SUBDIVIDER'S AGREEMENT
DELAWARE COUNTY SANITARY ENGINEER**

SECTION I: INTRODUCTION

This Agreement is entered into on this 18th day of January 2018, by and between **ROCKFORD HOMES, INC.**, hereinafter called "Subdivider", and the Delaware County Board of Commissioners (hereinafter called "County Commissioners" or "County") as evidenced by the **NORTH FARMS SECTION 5** Subdivision

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Plat and the **NORTH FARMS SECTION 7 PART B** Subdivision Plat filed or to be filed with the Delaware County Recorder, Delaware County, Ohio, and is governed by the following considerations and conditions, to wit:

The Subdivider is to construct, install or otherwise make all public improvements (the "Improvements") shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications for **SANITARY SEWER IMPROVEMENTS FOR NORTH FARMS SECTION 5 & SECTION 7 PHASE B**, dated **September, 2017**, and approved by the County on **November 16, 2017**, all of which are a part of this Agreement. The Subdivider shall pay the entire cost and expense of the Improvements.

SECTION II: CAPACITY

There are **22** single family residential equivalent connections approved for North Farms Section 5 with this Agreement.

There are **7** single family residential equivalent connections approved for North Farms Section 7, Phase B with this Agreement.

Capacity shall be reserved for one year from the date of this Agreement, unless the County Commissioners grant an extension in writing. Capacity is not guaranteed until the final Subdivision Plat is recorded. If the final Subdivision Plat is not recorded prior to expiration of the reservation deadline as set forth herein, the Subdivider agrees and acknowledges that capacity shall not be guaranteed.

SECTION III: FINANCIAL WARRANTY

OPTIONS:

- (1) Should the Subdivider elect to record the plat prior to beginning construction, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction (**\$273,040**) which is acceptable to the County Commissioners to insure faithful performance of this Agreement and the completion of all Improvements in accordance with the Subdivision Regulations of Delaware County, Ohio.
- (2) Should the Subdivider elect to proceed with construction prior to recording the plat, no approved financial warranties are necessary until such time as Subdivider elects to record the plat. At that time, the Subdivider shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction remaining to be completed as determined by the Delaware County Sanitary Engineer.

The Subdivider hereby elects to use Option 2 for this project.

Initials _____

Date _____

The Subdivider shall within thirty (30) days following completion of construction, and prior to final acceptance, furnish to the Delaware County Sanitary Engineer a five (5) year maintenance bond, or other approved financial warranties, equal to ten percent (10%) of the construction cost.

The Subdivider further agrees that any violations of or noncompliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract, and the County shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the Improvements for **North Farms Section 5 & Section 7, Phase B**.

SECTION IV: FEES

It is further agreed that upon execution of this Agreement, the Subdivider shall pay the Delaware County Sanitary Engineer three and one-half percent (3½%) of the estimated construction cost of the Improvements for plan review of **Sanitary Sewer Improvements for North Farms Section 5 & Section 7, Phase B (\$9,556.40)**. The Subdivider shall also deposit with the Delaware County Sanitary Engineer the sum of **\$23,175.00** estimated to be necessary to pay the cost of inspection for **North Farms Section 5 & Section 7, Phase B** by the Delaware County Sanitary Engineer. The Delaware County Sanitary Engineer shall in his or her sole discretion inspect, as necessary, the Improvements being installed or constructed by the Subdivider and shall keep accurate records of the time spent by his or her employees and agents in such inspections for which the Delaware County Sanitary Engineer shall be reimbursed from charges against the deposit. At such time as the fund has been depleted to a level of \$600.00 or less, as a result of charges against the fund at the rate of:

INSPECTOR \$75.00 per hour
CAMERA TRUCK \$150.00 per hour

for time spent by the Delaware County Sanitary Engineer or his or her staff, the Subdivider shall make an additional deposit of \$600.00 to the fund. Upon completion of all Improvements provided herein and acceptance of Improvements by the County, any unused portions of the inspection fund shall be repaid to the Subdivider less an amount equal to \$0.75 per foot of sewer which will be deducted to cover re-inspection.

In addition to the charges above, the Subdivider shall pay the cost of any third party inspection services for **North Farms Section 5 & Section 7, Phase B** as required by the County.

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SECTION V: CONSTRUCTION

All public improvement construction shall be performed within one (1) year from the date of the approval of this Agreement by the County Commissioners, but extension of time may be granted if approved by the County Commissioners.

The Subdivider shall indemnify and save harmless the County, Townships, Cities, and/or Villages and all of their officials, employees, and agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any action, or omissions of the Subdivider, and any of its contractors or sub-contractors, or from any material, method, or explosive used in the Work, or by or on account of any accident caused by negligence, or any other act or omission of the Subdivider, and any of its contractors or the contractors' agents or employees in connection with the Work.

The Subdivider shall have a competent representative who is familiar with the project on site during construction. The representative shall be capable of reading the plans and specifications and shall have authority to execute the plans and specifications and alterations required by the County. The representative shall be replaced by the Subdivider when, in the opinion of the County, the representative's performance is deemed inadequate.

If, due to unforeseen circumstances during construction activities, the Subdivider must install any of the Improvements to a different location than shown on the approved and signed construction plans, the Subdivider shall request a revision to the construction plans and the Delaware County Sanitary Engineer shall evaluate this request. If the request for a revision is approved in writing by the Delaware County Sanitary Engineer, then the Subdivider shall provide and record a revised, permanent, exclusive sanitary easement prior to the County's acceptance of the sewer. The language and dimensions of the revised, permanent, exclusive sanitary easements shall be subject to the approval of the Delaware County Sanitary Engineer.

The Subdivider shall, during the construction and maintenance periods, comply with all rules and regulations and conform to all procedures established by the County regarding submission of shop drawings, construction schedules, operation of facilities, and other matters incident to the construction and operation of the Improvements.

The Subdivider shall obtain all other necessary utility services incident to the construction of the Improvements and for their continued operation. The Subdivider shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Subdivider and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

SECTION VI: EASEMENTS

The Subdivider shall provide to the County all necessary easements or rights-of-way required to complete the Improvements, all of which shall be obtained at the expense of the Subdivider. All Improvements, including, but not limited to, public sanitary sewers, force mains, manholes, and private laterals to offsite properties shall be located within a recorded, permanent, exclusive sanitary easement on file at the Delaware County Recorder's Office, the language of which shall be subject to approval by the Delaware County Sanitary Engineer. The dimensions of all easements shall be as shown on the approved engineering drawings. If any onsite easement or necessary right of way is not to be recorded as part of a subdivision plat, such easements and rights-of-way shall be recorded and provided to the Delaware County Sanitary Engineer before a preconstruction meeting will be permitted and before construction may begin on the Improvements. All offsite easements must be recorded prior to signing the plans unless otherwise permitted, in writing, by the Delaware County Sanitary Engineer.

SECTION VII: COMPLETION OF CONSTRUCTION

The County shall, upon certification in writing from the Delaware County Sanitary Engineer that all construction is complete according to the plans and specifications, by Resolution, accept the Improvements described herein and accept and assume operations and maintenance of the Improvements.

The Subdivider shall within thirty (30) days following completion of construction of the Improvements, and prior to final acceptance, furnish to the County as required:

- (1) "As built" drawings of the Improvements which plans shall become the property of the County and shall remain in the office of the Delaware County Sanitary Engineer and Delaware County Engineer and/or the City of Powell. The drawings shall be on reproducible Mylar (full size), two paper copies (one full size & one 11"x17"), and a Compact Diskette with the plans in .DWG format & .PDF format. If each or any Section/Phase/Part is accepted separately, SUBDIVIDER agrees to provide as built drawings for each Section/Phase/Part as requested and one complete set of as built drawings for the **Sanitary Sewer Improvements for North Farms Section 5 & Section 7, Phase B** with the last final acceptance.

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- (2) An Excel spreadsheet, from a template as provided by the Delaware County Sanitary Engineer, shall accompany the plan submittal showing the locations of the manholes in Ohio State Plane North Coordinates NAD 1983 (NAVD 1988 datum) and other miscellaneous project data.
- (3) An itemized statement showing the cost of the Improvements.
- (4) An Affidavit or waiver of lien from all contractors associated with the project that all material and labor costs have been paid. The Subdivider shall indemnify and hold harmless the County from expenses or claims for labor or materials incident to the construction of the Improvements.
- (5) Documentation showing the required sanitary easements.

Should the Subdivider become unable to carry out the provisions of this Agreement, the Subdivider's heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions, and requirements of this Agreement. Notwithstanding any other provision of this Agreement, the County shall have no obligation to construct any improvements contemplated herein, and any construction thereof on the part of the County shall be strictly permissive and within the County's sole discretion.

The Subdivider, for a period of five (5) years after acceptance of the Improvements by the County, shall be responsible for defective materials and/or workmanship. All warranties for equipment installed as a part of the Improvements shall be the same as new equipment warranties and shall be assigned to the County upon acceptance of the Improvements.

After the acceptance of the Improvements, the capacity charge **and any surcharges** shall be paid by the applicant upon request to the Delaware County Sanitary Engineer for a tap permit to connect to the sanitary sewer.

SECTION VIII: SIGNATURES

IN CONSIDERATION WHEREOF, the County Commissioners hereby grant the Subdivider or its agent the right and privilege to make the Improvements stipulated herein and as shown on the approved plans.

Vote on Motion Mr. Merrell Absent Mrs. Lewis Aye Mr. Benton Aye

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RESOLUTION NO. 18-50

IN THE MATTER OF APPROVING AN ELECTRONIC DATA SHARING AGREEMENT BETWEEN THE CITY OF COLUMBUS AND THE DELAWARE COUNTY REGIONAL SEWER DISTRICT, OHIO:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Sanitary Engineer recommends approval of an Electronic Data Sharing Agreement with the City of Columbus;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, Ohio hereby approves the following agreement with the City of Columbus, Ohio:

**ELECTRONIC DATA SHARING AGREEMENT
BETWEEN THE CITY OF COLUMBUS
AND
THE DELAWARE COUNTY REGIONAL SEWER DISTRICT, OHIO**

This Electronic Data Sharing Agreement (the "Agreement") is entered into by and between the City of Columbus, Department of Public Utilities (the "City") and the Delaware County Board of Commissioners, for and on behalf of the Delaware County Sewer District (the "County") each individually a "Party" and collectively the "Parties," effective January 18, 2018 (the "Effective Date").

WITNESSETH:

WHEREAS, the City and County have existing intergovernmental agreements ("Existing Agreements") providing for the County acceptance and treatment of wastewater from certain areas of the City as provided for in the Existing Agreements; and

WHEREAS, the County has responsibility to mark its utilities and, pursuant to the Existing Agreements, to permit certain sewer connections to areas that are City-maintained or within certain sewer Districts, as well as respond to public inquiries about development potential and abandonment of private water and sewerage systems in such areas; and

WHEREAS, the County needs up-to-date information on the City infrastructure in the areas from which the County accepts and treats wastewater under the Existing Agreements; and

WHEREAS, it is beneficial to both the City and County to share certain electronic data related to each Party's sewer

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systems; and

WHEREAS, the Parties intend that any such data that is exempt from disclosure as a public record remain exempt; and

NOW THEREFORE, the Parties agree as follows:

1. The term of this Agreement shall be from the Effective Date and shall continue unless and until the Agreement is terminated pursuant to the terms herein.
2. Each Party agrees to share with the other Party its Geographic Information Systems (GIS) data for its respective sanitary sewage systems and to provide any updates to such data on an annual basis, unless significant updates occur to either GIS database that warrant a more frequent exchange as agreed upon by both Parties.
 - a. The data exchange shall occur between the City and County by December 31 of each calendar year.
 - b. The data shall be exchanged via a labeled disc, FTP transfer, E-mail transfer, or in such other manner as the parties may agree to from time to time.
3. The City will share:
 - its sanitary sewer GIS dataset within the Delaware #1 Contract Service Area, tributary to, or within 200' thereof, as defined in the Exhibits attached to the Existing Agreements, which may be modified by agreement of the Parties;
 - its sanitary sewer GIS dataset within the Delaware #4 Contract Service Area, tributary to, or within 200' thereof as defined in the Exhibits attached to the Existing Agreements, which may be modified by agreement of the Parties;

The County will share:

- County-responsible infrastructure within the Delaware #1 Contract Service Area, tributary to, or within 200' thereof as defined in the Exhibits attached to the Existing Agreements, which may be modified by agreement of the Parties;
 - County-responsible infrastructure within the Delaware #4 Contract Service Area, tributary to, or within 200' thereof as defined in the Exhibits attached to the Existing Agreements, which may be modified by agreement of the Parties;
4. The Parties agree that the use of any data shared will be limited to the operation and management of each Party's respective utilities or to assist in answering public inquiries about sewer availability. While every reasonable effort has been made to ensure the accuracy of this information, the Parties assume no liability arising from any use of this information and are not responsible for its accuracy or completeness. Those using this information for any reason are solely responsible for its use and do so at their own risk.
 5. Subject to the provisions of Ohio Revised Code Section 149.43 et seq., each Party agrees that it will not disclose to any third party in any form or manner any GIS data received from the other Party and each Party agrees that it, including all of its employees and agents, will assert any applicable exemption to disclosure under Ohio public records law, including but not limited to the infrastructure exemption provided for in Ohio Revised Code section 149.433, as may be amended from time to time.
 6. General Correspondence may be directed to:
 - a. Executive Director, Delaware County Sewer District, 50 Channing Street, Delaware, OH 43015
 - b. GIS Manager, Department of Public Utilities, City of Columbus, 910 Dublin Road, Columbus, Ohio 43215
 7. The Parties will collaborate to correct any apparent errors or discrepancies in attribute data in the respective GIS databases to improve upon the information as its use affects both Parties' understanding of its obligations and responsibility to the systems.
 8. If either Party violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its obligations under this Agreement, then the aggrieved party may terminate this Agreement upon 30 calendar days written notice to the other party of such failure or violation. The option to terminate shall be at the sole discretion of the aggrieved party.
 9. This Agreement does not supersede or modify any other intergovernmental agreements with respect to sewer systems in effect between the City and County.

Vote on Motion

Mrs. Lewis

Aye

Mr. Merrell

Absent

Mr. Benton

Aye

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RESOLUTION NO. 18-51

IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following work permits:

Whereas the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

Now Therefore Be It Resolved, that the following permits are hereby approved by The Board of Delaware County Commissioners:

Permit #	Applicant	Location	Type of Work
U18-001	Suburban Natural Gas	Evans Farm Sec. 1	Lay gas main
U18-002	AEP	Liberty Road	Relocate facilities
U18-003	AT&T	Sawmill Parkway	Road Bore
U18-004	Consumers Gas Cooperative	County Line Road	Install natural gas

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

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RESOLUTION NO. 18-52

IN THE MATTER OF APPROVING OWNER’S AGREEMENTS FOR NORTHLAKE WOODS SECTION 1; NORTH FARMS SECTION 5; AND NORTH FARMS SECTION 7, PHASE B:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following agreements:

Whereas, The Engineer recommends approving the Owner’s Agreements for Northlake Woods Section 1; North Farms Section 5; And North Farms Section 7, Phase B

Now Therefore Be It Resolved, that the Delaware County Board of Commissioners approve the Owner’s Agreements for Northlake Woods Section 1; North Farms Section 5; And North Farms Section 7, Phase B

Northlake Woods Section 1

OWNER’S AGREEMENT
PROJECT NUMBER: 6060

THIS AGREEMENT, executed on this 18th day of January, 2018 between **SCHOTTENSTEIN HOMES**, hereinafter called ‘**OWNER**’ and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **Northlake Woods Section 1**, further identified as Project Number 6060 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

- Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit “A”** attached hereto.
- Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

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All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FORTY-SIX THOUSAND DOLLARS (\$46,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$1,153,300
CONSTRUCTION BOND AMOUNT	\$ N/A
MAINTENANCE BOND AMOUNT	\$ 115,300
INSPECTION FEE DEPOSIT	\$ 46,000

North Farms Section 5

OWNER'S AGREEMENT
PROJECT NUMBER: 7038

THIS AGREEMENT, executed on this 18th day of January, 2018 between **ROCKFORD HOMES**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **NORTH FARMS SECTON 5**, further identified as Project Number 7038 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

- Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.

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2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **TWENTY-SEVEN THOUSAND DOLLARS (\$27,000)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$452,900
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$ 45,300
INSPECTION FEE DEPOSIT	\$ 27,000

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North Farms Section 7, Phase B

**OWNER'S AGREEMENT
PROJECT NUMBER: 7058**

THIS AGREEMENT, executed on this 18th day of January, 2018 between **ROCKFORD HOMES**, hereinafter called '**OWNER**' and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as **NORTH FARMS SECTION 7, PHASE B**, further identified as Project Number 7058 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **FOURTEEN THOUSAND EIGHT HUNDRED DOLLARS (\$14,800)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to **ten percent (10%)** of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Delaware County Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within Delaware County and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

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The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER’S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT “A”

CONSTRUCTION COST ESTIMATE	\$184,800
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$ 18,500
INSPECTION FEE DEPOSIT	\$ 14,800

Vote on Motion Mr. Merrell Absent Mr. Benton Aye Mrs. Lewis Aye

14
RESOLUTION NO. 18-53

IN THE MATTER OF APPROVING THE PLAT OF SUBDIVISION FOR FOURWINDS DRIVE SECTION 2:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, Brookdoc Investments, LLC has submitted the Plat of Subdivision (“Plat”) for Fourwinds Drive Section 2, including related development plans (“Plans”) and requests approval thereof by the Board of Commissioners of Delaware County; and

Whereas, the Berlin Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on November 27, 2017; and

Whereas, the Berkshire Township Zoning Officer has reviewed said Plat and Plans for conformance with Township Zoning Regulations and approved said Plat on November 27, 2017; and

Whereas, Del-Co Water Company has reviewed said Plat and Plans for conformance with its rules and regulations and approved said Plat on November 27, 2017; and

Whereas, the Delaware County Sanitary Engineer has reviewed said Plat and Plans for conformance with the Rules, Regulations, Standards and General Procedures Governing Sewerage in Delaware County and approved said Plat on December 4, 2017; and

Whereas, the Delaware County Engineer has reviewed said Plat and Plans for conformance with Delaware County Engineering and Surveying Standards and approved said Plat on December 12, 2017; and

Whereas, the Delaware County Regional Planning Commission has reviewed said Plat and Plans for conformance with Delaware County Subdivision Regulations and approved said Plat on December 28, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Plat of Subdivision for Fourwinds Drive Section 2

Fourwinds Drive Section 2:

Situated in the State of Ohio, County of Delaware, Township of Berkshire and Berlin, Farm Lots 3 and 4, Section 2. Township 4, Range 17, United States Military Lands, Being 85.092 Acres of Land all out of that 114.696 Acre Tract Conveyed to Brookdoc Investments, LLC, an Ohio Limited Liability Company by Deed of Record in Official Record 1025, Page 389, Being of Record in the Recorder’s Office, Delaware County, Ohio. Cost \$18.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Absent

15
RESOLUTION NO. 18-54

IN THE MATTER OF APPROVING CONTRACTS OF SALE AND PURCHASE BETWEEN EDWARD M. BLOECHI, AND BETTY J. THOMPSON AND THE BOARD OF DELAWARE COUNTY COMMISSIONERS FOR DEL-CR14-1.23:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

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Whereas, the County Engineer recommends approval of the contracts of sale and purchase with Edward M. Bloechi and Betty J. Thompson for the project known as DEL-CR14-1.23

Now Therefore Be It Resolved that:

Section 1. The Delaware County Board of Commissioners approve the contracts of sale and purchase with Edward M. Bloechi and Betty J. Thompson for the project known as DEL-CR14-1.23 as follows:

Edward M. Bloechi

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS**

WITNESSETH: On this 18th day of January, 2018, Edward M. Bloechi, unmarried, whose address is 3451 E. Powell Rd., Lewis Center, OH 43035, hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)
162 WD, T
DEL-CR14-1.23

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

TERMS OF PURCHASE:

1. PURCHASER promises and agrees to pay to the SELLER the total sum of \$36,568.26 which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
 - (A) All title, rights, and interest in and to the PROPERTY; and,
 - (B) For damages to any residual lands of the SELLER; and,
 - (C) For SELLER's covenants herein; and,
 - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
 - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, whatever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)
5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.

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6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.
13. This CONTRACT shall be binding upon the SELLER and the SELLER's heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or

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circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Betty J. Thompson

**CONTRACT OF SALE AND PURCHASE
VACANT LAND/IMPROVEMENTS**

WITNESSETH: On this 18th day of January, 2018, Betty J. Thompson, single, whose address is 7950 Hickory Ridge Court., Lewis Center, Ohio 43035, hereinafter, the SELLER, in consideration of the mutual promises, agreements, and covenants herein do hereby grant, remise, and sell to the Board of County Commissioners of Delaware County, Ohio, whose address is 101 North Sandusky Street, Delaware, Ohio 43015, hereinafter the PURCHASER, the following described premises, hereinafter the PROPERTY, to wit:

See Attached Exhibit A (Property Description)
167 WD, T-1, T-2
DEL-CR14-1.23

By this reference, Exhibit A is incorporated herein and made a part hereof as if fully rewritten herein.

TERMS OF PURCHASE:

1. PURCHASER promises and agrees to pay to the SELLER the total sum of \$17,325.00 which total sum to be paid the SELLER pursuant to this CONTRACT shall be in exchange and constitute the entire compensation for all of the following:
 - (A) All title, rights, and interest in and to the PROPERTY; and,
 - (B) For damages to any residual lands of the SELLER; and,
 - (C) For SELLER's covenants herein; and,
 - (D) For expenses related to the relocation of the SELLER, their family, and business; and,
 - (E) For any supplemental instruments necessary for transfer of title.

It is understood and agreed that the SELLER is responsible for all delinquent taxes and assessments on the PROPERTY, including, but not limited to, penalties and interest and all other real estate taxes and assessments which are a lien on the PROPERTY on the date of closing. The current calendar year's taxes are to be prorated on an estimated basis to the date of acquisition of title or date of possession, whichever date is earlier. SELLER is also responsible for all future installments of special assessments levied and assessed against the PROPERTY, whether these special assessments have or have not been certified to the county auditor for collection, provided those installments are a lien on the PROPERTY at the date of transfer. The PURCHASER may hold in escrow a sufficient amount of the purchase money to satisfy the above items. Any balance remaining after taxes, assessments, etc. are discharged, shall be refunded to the SELLER and any deficiency shall be the responsibility of the SELLER.

2. Closing shall occur at a time and place agreed upon between the parties, but no later than 30 days after notification of the SELLER by the PURCHASER that PURCHASER is ready to close. All title and interest in the PROPERTY shall transfer from the SELLER to the PURCHASER and closing shall occur within ninety (90) days. This date by which transfer and closing must occur may be modified via a signed writing mutually agreed upon by all parties to this CONTRACT.
3. SELLER agrees to transfer, sell, and convey, upon the fulfillment of all the obligations and terms of this CONTRACT, by a good and sufficient deed of general warranty of title, with full release of dower, to said PURCHASER, its successors and assigns, the PROPERTY in fee simple, together with all the appurtenances and hereditaments thereunto belonging and improvements now located thereon and all fixtures of every nature now attached or used with said land and improvements.
4. SELLER further agrees to release to the PURCHASER, its heirs, successors and assigns, any and all abutters rights or easements, including access rights to and from the PROPERTY, whatever the nature of such access rights, including but not limited to, across, in, over, upon, and above, appurtenant to any

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remaining lands of the SELLER not sold, transferred, or conveyed to the PURCHASER pursuant to this CONTRACT of which the PROPERTY now forms a part. (This paragraph applies to limited access parcels only.)

5. SELLER further agrees to execute supplemental instruments necessary for the construction and maintenance over, across, and upon the PROPERTY, necessary for the road, street, and/or highway project for which the PROPERTY was acquired.
6. SELLER further agrees to transfer, sell, and convey the PROPERTY with release of dower and warranting the same free and clear from all liens and encumbrances whatsoever, excepting zoning restrictions and public utility easements of record.
7. SELLER further agrees to assist wherever possible to procure, record, and deliver to the PURCHASER releases and cancellations of all interest in such title, including, but not limited to tenants, lessees or others now in possession, or in any manner occupying or having an interest in the PROPERTY, and all assessment claims against the PROPERTY.
8. Prior to acceptance by the PURCHASER, the execution of this CONTRACT by the SELLER shall constitute an offer to sell which shall continue for a period of twenty (20) days from the date of such execution. Upon acceptance of this CONTRACT by the PURCHASER within said period, it shall constitute a valid and binding CONTRACT of Sale and Purchase.
9. SELLER agrees that the PURCHASER may designate an escrow agent who shall act on behalf of both parties in connection with the consummation and closing of this CONTRACT.
10. SELLER also agrees that he will not destroy, change, alter, or damage the existing character of the PROPERTY. The SELLER understands and hereby assumes the risk of and any and all damage, change, or alteration that may occur to the PROPERTY between execution of this CONTRACT and the date the PURCHASER takes possession of the PROPERTY and hereby agrees to indemnify the PURCHASER for any and all such damage, change, or alteration that occurs.

In the event that any damage, change, alteration or destruction occurs to the PROPERTY resulting from any cause whatsoever, prior to the date possession is surrendered to the PURCHASER, the SELLER agrees to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER, or to accept the purchase price consideration, hereinabove stated, less the cost of restoration. In the event the SELLER refuses to restore the PROPERTY to the condition it was in at the time of the execution of this CONTRACT by the SELLER or to accept the money consideration less the cost of such restoration as hereinabove stated, the PURCHASER may, at its option after discovery or notification of such destruction, change, alteration, damage, removal, or injury, terminate this CONTRACT by signed written notice to said SELLER. In addition to termination of the CONTRACT, PURCHASER hereby preserves and may exercise any and all legal options, actions, causes, or remedies that are or may be available to the PURCHASER. Nothing in this provision or this CONTRACT shall be interpreted to limit the PURCHASER from exercising any such available legal options, actions, causes, or remedies.

11. Until such time as the SELLER completely vacates the PROPERTY, the SELLER agrees to indemnify, save and hold the PURCHASER, and all of its officers, employees, agents, servants, representatives, and volunteers free and harmless from any and all claims of liability, whatever the source or nature, related to the SELLER's use and occupation of the PROPERTY and from any and all actions, claims, demands, judgments, damages, losses and expenses, including but not limited to attorney's fees, arising from any accident or occurrence related in any manner to the SELLER's use or occupation of the PROPERTY. The SELLER shall undertake to defend, at its own expense, any and all actions, claims, or demands brought against the PURCHASER or any of its officers, employees, agents, servants, representatives, and volunteers by reason of the things above specified, and to pay, settle, compromise and procure the discharge of any and all judgments, damages, losses and expenses, including but not limited to attorney's fees.
12. The SELLER hereby acknowledges that the compensation or consideration specified in this CONTRACT represents and is the full and total amount of compensation and consideration that the SELLER will and is entitled to receive from the PURCHASER in exchange for, in relation to, and in connection with the transfer of the PROPERTY. The SELLER and the SELLER's heirs, executors, administrators, successors, and assigns hereby forever release the PURCHASER from any and all claims for any damages, injuries, or any additional compensation or consideration than is expressly provided for in this CONTRACT. The SELLER hereby further forever releases the PURCHASER from any and all claims the SELLER, and the SELLER's heirs, administrators, executors, successors, and assigns may make as related to the transfer of the PROPERTY, costs associated with the transfer of the PROPERTY, for any damage to any residue property as a result of the transfer, for any damage or injury suffered to the SELLER or the SELLER's business as a result of relocating from the PROPERTY, for expenses related to the relocation of the SELLER, their family, and business, or any other cost, damage, or injury, whatever the source or nature, associated with or the result of the transfer of the PROPERTY.

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13. This CONTRACT shall be binding upon the SELLER and the SELLER’s heirs, executors, administrators, successors and assigns, and shall inure to the benefit of the PURCHASER, its heirs, successors and assigns.
14. If any item, condition, portion, or section of this CONTRACT or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this CONTRACT and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
15. This CONTRACT shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this CONTRACT shall be filed in and heard before the courts of Delaware County, Ohio.
16. This CONTRACT and its Attachments shall constitute the entire understanding and agreement between the SELLER and the PURCHASER, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.
17. This CONTRACT shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Section 2. The Board approves a Purchase Order and Voucher for the above contracts.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

16

RESOLUTION NO. 18-55

IN THE MATTER OF DECLARING THE NECESSITY FOR IMPROVEMENTS TO THE INTERSECTION OF STATE ROUTE 3 AND SOUTH GALENA ROAD AND APPROVING A PROJECT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, Section 5555.022 of the Revised Code provides that a Board of County Commissioners may find by a majority vote that the public convenience and welfare require the improving of any part of any public road, may fix the route and termini of the Improvement and may authorize such Improvement; and

WHEREAS, the Ohio Department of Transportation (“ODOT”) has conducted a safety study of the intersection of State Route 3 and South Galena Road/Walnut Street in cooperation with the County Engineer; and

WHEREAS, the study found that safety improvements (the “Improvement”) to the intersection, consisting of a modern roundabout or a traffic signal with turn lanes, are warranted; and

WHEREAS, the Village of Galena corporation limits include a portion of the intersection, and a portion of the intersection is in the unincorporated area of Delaware County, thereby creating a split jurisdiction of the intersection; and

WHEREAS, the Board of Commissioners, by Resolution No. 15-1133, previously agreed to cooperate with ODOT for said Improvement; and

WHEREAS, the Board of Commissioners, by Resolution No. 17-993, entered into a Project Cooperation Agreement with the Village of Galena for said Improvement; and

WHEREAS, ODOT administers the Highway Safety Improvement Program (“HSIP”), which provides federal highway funding for road safety upgrades throughout the State, and the Improvement received funding for 50 percent of the eligible construction costs, up to a maximum of \$536,250, through the HSIP; and

WHEREAS, the County and Village of Galena will each be responsible for half of the remaining construction cost of the project; and

WHEREAS, the County Engineer, through an Engineering Services Agreement with LJB, Inc. approved by Resolution No. 16-777, has prepared surveys, plans, specifications, and estimates for the Improvement; and

WHEREAS, the County Engineer’s estimated construction cost of the Improvement is \$1,181,913.64; and

WHEREAS, ODOT, which is charged with the responsibility for administering federally funded highway projects, requests approval of a Project Agreement outlining the responsibilities of ODOT and Delaware County;

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NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio that:

Section 1: The Board hereby finds that the public convenience, welfare, and safety require improving the intersection of State Route 3 and South Galena Road/Walnut Street by constructing turn lanes and a traffic signal, and hereby initiates the improvement known as DEL-SR3-7.21, State Route 3 and S. Galena Road Intersection Improvements (PID 102097) for such purposes.

Section 2: The County portion of the costs for said Improvement will be paid for from any funds appropriated for road and bridge construction, and no special levies or assessments shall be made to pay for the Improvement.

Section 3: The Board hereby approves the following agreement and authorizes the County Engineer to act on behalf of the Board in performance of the agreement:

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the **Delaware County Board of Commissioners**, hereinafter referred to as the LPA, **101 North Sandusky Street, Delaware, Ohio 43015**.

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 **DEL-SR3-7.21, PID Number 102097** (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:
- a. Section 5501.03(D) of the ORC;
 - b. ODOT Locally Administered Transportation Projects, Manual of Procedures;
 - c. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105;
 - d. State of Ohio Department of Transportation Construction and Material Specifications Manual (applicable to dates of PROJECT);
 - e. 2 CFR Part 200; and
 - f. Federal Funding Accountability and Transparency Act (FFATA)
- 2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be **\$1,072,500** as set forth in Attachment 1. ODOT shall provide to the LPA the following: **fifty percent (50%)** of the eligible costs up to a maximum amount of **\$536,250 for the Construction phase (ODOT HSP Funds)** in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.
- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100 percent Locally-funded work, cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

- 4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

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- 4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.
- 4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA shall make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication. Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: www.dot.state.oh.us/drrc/Pages/default.aspx
- 4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the PROJECT Design Engineer and serve as the LPA's principal representative for attending to PROJECT responsibilities, or engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC sections 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT
- 4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.
5. ENVIRONMENTAL RESPONSIBILITIES
- 5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.
- 5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at www.dot.state.oh.us/CONTRACT. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 5.3 ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the project.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall submit a NOI to Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-Let LPA projects, they may use an alternative post-construction BMP criteria with Ohio EPA approval.
6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION
- 6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall

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be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.

- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.
- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that, if any property acquired for this project is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this project that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.
7. ADVERTISING, SALE AND AWARD
- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.
- 7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.

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- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the “prime” contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100 percent locally-funded work product within this agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State’s website at <https://ohioauditor.gov/findings.html> . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA’s bid documents or on any successful contractor in the LPA’s award or contract for the construction of the PROJECT.
- 7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this agreement, if applicable.
8. CONSTRUCTION CONTRACT ADMINISTRATION
- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this agreement.
- 8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the project. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the project comply with ODOT’s Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.
- 8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA is requests reimbursement, it must provide documentation of payment for the PROJECT costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are

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completed and accepted.

- 8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA. When the LPA is requesting a direct payment to its Contractor, the LPA must provide documentation that the LPA has paid its share of the PROJECT costs.
- 8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.
- 8.7 Payment or reimbursement to the LPA shall be submitted to:

**Chris Bauserman, P.E., P.S.
Delaware County Engineer
50 Channing Street
Delaware, OH 43015
740-833-2400**

- 8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.
- 8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.
- 8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.
- 8.11 After completion of the PROJECT, and in accordance with Title 23 United States Code 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.
- 8.12 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within 6 months of the physical completion date of the project. All costs must be submitted within 6 months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the 6 month period may result in closeout of the project and loss of eligibility of any remaining Federal and or State funds.
9. CERTIFICATION AND RECAPTURE OF FUNDS
- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal

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thereof will terminate on the date funding expires.

- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. **NONDISCRIMINATION**

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this project for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the **ORC**.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. Prior to executing the contract with the contractor, and in order for ODOT to encumber the Federal/State funds, the contractor must demonstrate compliance with the DBE Utilization Plan and Good Faith Efforts requirements.

GOOD FAITH EFFORTS (GFEs)

In the event that the DBE contract goal established by ODOT is not met on a project, the Contractor shall demonstrate that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The Contractor shall demonstrate its GFEs by submitting information including but not limited to the following to the LPA:

- (1) All written quotes received from certified DBE firms;
- (2) All written (including email) communications between the Contractor and DBE firms;
- (3) All written solicitations to DBE firms, even if unsuccessful;
- (4) Copies of each non-DBE quote when a non-DBE was selected over a DBE for work on the contract;
- (5) Phone logs of communications with DBE firms.

The LPA will send the GFE documentation including their recommendation to ODOT at the following address:

Office of Small & Disadvantaged Business Enterprise
The Ohio Department of Transportation
1980 West Broad Street, Mail Stop 3270
Columbus, Ohio 43223

ODOT shall utilize the guidance set forth in 49 CFR §26.53 Appendix A in determining whether the Contactor has made adequate good faith efforts to meet the goal. ODOT will review the GFE documentation and the LPA's recommendation and issue a written determination on whether adequate GFEs have been demonstrated by the

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Contractor.

The Contractor may request administrative reconsideration within two (2) days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following official:

Ohio Department of Transportation
Division of Chief Legal Counsel
1980 West Broad Street, Mail Stop 1500
Columbus, Ohio 43223

The reconsideration official will not have played any role in the original determination that the Contractor did not document sufficient good faith effort.

As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the Contractor a written decision on reconsideration explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable.

ODOT may issue sanctions if the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort. ODOT may impose any of the following sanctions:

- (a) letter of reprimand;
- (b) contract termination; and/or
- (c) other remedies available by law including administrative suspension.

Factors to be considered in issuing sanctions include, but are not limited to:

- (a) the magnitude and the type of offense;
- (b) the degree of the Consultant's culpability;
- (c) any steps taken to rectify the situation;
- (d) the Contractor's record of performance on other projects including, but not limited to:
 - (1) annual DBE participation over DBE goals;
 - (2) annual DBE participation on projects without goals;
 - (3) number of complaints ODOT has received from DBEs regarding the Contractor; and,
 - (4) the number of times the Contractor has been previously sanctioned by ODOT; and,
- (e) Whether the Contractor falsified, misrepresented, or withheld information.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest agrees as follows:

- (1) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

- (2) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.
- (3) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- (4) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of

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the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the LPA under the contract until the LPA complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its

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rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

**Chris Bauserman, P.E., P.S.
Delaware County Engineer
50 Channing Street
Delaware, OH 43015**

If to ODOT:

**Mitchell R. Blackford, District Six Deputy Director
Attention: Tracy L. Allen
ODOT, District Six
400 East William Street
Delaware, OH 43015**

15. GENERAL PROVISIONS

15.1 Recovery of Direct Labor, Overhead, and/or Fringe Costs:

To be eligible to recover any costs associated with the LPA's internal labor forces used on this project, the LPA shall make an appropriate selection below:¹

- 1. Direct Labor only (no indirect cost recovery for fringe benefit or overhead costs)
- 2. Direct Labor plus indirect costs determined using the Federal De Minimis Indirect Cost Rate²
- 3. Direct Labor plus Approved Fringe Benefit Costs (fringe benefits only)³
- 4. Direct Labor plus indirect costs determined using the approved applicable Cost Allocation Plan rate⁴
- 5. No cost recovery of any LPA direct labor, fringe benefits, or overhead costs.

For any labor costs to be eligible for reimbursement with Federal and State funds, the LPA shall meet all timekeeping requirements outlined in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance,

¹ **Note:** If a timely election is not made at the time of contract execution, the cost recovery method will default to Option 5: No cost recovery of any LPA direct labor, fringe benefits, or overhead costs.

² The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. Regardless of whether the LPA prepares a CAP or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs and associated indirect costs only if such costs are accumulated, tracked, and allocated in accordance with such systems. Before an LPA is eligible to elect the de minimis rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. To obtain this approval, LPAs will be required to complete an Internal Control Questionnaire (ICQ), and LPAs with compliant time-tracking systems will be granted approval (be prequalified) to apply the de minimis rate.

³ Annually, the LPA shall submit an updated rate for review and approval by the ODOT Office of External Audits.

⁴ Annually, the LPA shall submit an updated rate for review and approval by the ODOT Office of External Audits.

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including ODOT Questions and Answers⁵ and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall follow 2 CFR Part 200 and the LATP Manual of Procedures.

- 15.2 Financial Reporting and Audit Requirements: The LPA shall comply with the financial reporting and audit requirements of 2 CFR Part 200.

The LPA must submit performance reports at the interval required by the Federal awarding agency and pass-through entity. Annual reports must be due 90 calendar days after the reporting period; quarterly and semi-annual reports must be due 30 calendar days after the reporting period. Alternatively, ODOT may require annual reports before the anniversary dates of multiple year Federal awards.⁶

LPAs that expend \$750,000 or more in the LPA's fiscal year in Federal awards must have a Single Audit, or program-specific audit, conducted for that year in accordance with 2 CFR §200.501.

Federal and State funds expended to or on behalf of a subrecipient must be recorded by the subrecipient (LPA). The LPA is responsible for tracking these payments throughout the life of the project in order to ensure an accurate Schedule of Expenditures of Federal Award (hereinafter referred to as *Schedule*) is provided for 20.205 funding. The LPA must identify each ODOT PID and/or Project and the corresponding expenditures on its Schedule separately. LPAs are responsible for ensuring funds related to this PROJECT are reported when the activity related to the Federal award occurs.⁷ The LPA is required to report its own expenditures, in addition to any expenditures made by ODOT for the project in the applicable Schedule when the expenditure was made. When a Schedule is not accurately reported for the project, the LPA will be required to make corrections to past, current, and possibly future Schedules and Audit Reports to ensure Federal funds are accurately reported in the correct fiscal year matching the project expenditure. The LPA is required to report all Federal funds received, or expended on its behalf, regardless to differences in the LPA expenditure date and ODOT reimbursement date.

- 15.3 *Record Retention*: The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.4 *Ohio Ethics Laws*: LPA agrees that it they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.
- 15.5 *State Property Drug-Free Workplace Compliance*: In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.6 *Governing Law*: This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.7 *Assignment*: Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

⁵ Question and Answer guidance can be found at the following web address:

[http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/Locallet%20Manual/LPA%20Questions%20and%20Answers%20Re%202%20CFR%20200%20\(latest\)%20\(2\).pdf](http://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/Locallet%20Manual/LPA%20Questions%20and%20Answers%20Re%202%20CFR%20200%20(latest)%20(2).pdf)

⁶ See 2 CFR §200.328.

⁷ Per 2 CFR §200.502

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- 15.8 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.9 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.10 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

The parties agree that execution of the contract will occur in the following approved manner: The County will transmit a color scanned copy of the agreement signed by the County and ODOT will return a color scanned copy to the County that includes signatures by both the County and ODOT.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

Vote on Motion Mr. Merrell Absent Mrs. Lewis Aye Mr. Benton Aye

17

RESOLUTION NO. 18-56

IN THE MATTER OF APPROVING AN AGREEMENT WITH THE MID-OHIO REGIONAL PLANNING COMMISSION FOR A COMPREHENSIVE, CONTINUOUS AND COOPERATIVE PLANNING PROCESS:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

**AGREEMENT FOR
COMPREHENSIVE, CONTINUING AND COOPERATIVE
TRANSPORTATION PLANNING PROCESS
between the
MID-OHIO REGIONAL PLANNING COMMISSION (MORPC)
and
DELAWARE COUNTY (COUNTY)**

This Agreement for the Comprehensive, Continuing and Cooperative (3-C) Transportation Planning Process is made and entered into between the Mid-Ohio Regional Planning Commission ("MORPC") acting as the Metropolitan Planning Organization (MPO) for Central Ohio and Delaware County ("COUNTY").

Recitals

WHEREAS, various state grants and aids are available to MORPC for carrying out urban transportation planning activities; and

WHEREAS, the Governor of Ohio has designated MORPC as the MPO for Central Ohio; and

WHEREAS, metropolitan area boundaries in Ohio for purpose of the federal planning provisions shall be determined by agreement between the MPO and the Governor of Ohio; and

WHEREAS, metropolitan transportation planning activities come under the jurisdiction of the U.S. Department of Transportation ("USDOT") and are subject to the metropolitan planning requirements of 23 U.S.C. 134 and Section 5303 (or Section 8) of the Federal Transit Act, as amended; and

WHEREAS, Section 134 of Title 23 of the United States Code and Sections 1604(l), 1607(a) and 1607(c) Title 49 of the United States Code requires that each urbanized area, as a condition of the receipt of federal capital or operating assistance, have a continuing, cooperative and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals that lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods; and

WHEREAS, the members of MORPC recognize that transportation planning and programming must be conducted as an integral part of and consistent with the comprehensive planning and development process, and that the process must involve the fullest possible participation by state agencies, local governments, private institutions, other appropriate groups and the general public; and

WHEREAS, MORPC formulates, approves and periodically updates/amends a multimodal long-range transportation plan for the Planning Area which shall conform to all applicable federal requirements and work program content and schedules; and

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WHEREAS, MORPC formulates and approves the short-range Transportation Improvement Program (TIP) for the Planning Area which shall cover a period of not less than 4 years and may include projects outside the Planning Area for information only; and

WHEREAS, MORPC formulates and annually approves the metropolitan transportation planning work program, which identifies all transportation-related planning activities to be funded, with state and federal financial aids; and

WHEREAS, MORPC provides a forum for cooperative transportation planning and decision-making, and establishing a public involvement process that ensures opportunities for early and continuing involvement of local governmental units, transit operators, and the general public in the review and evaluation of all transportation plans and programs; and

WHEREAS, it is beneficial to Delaware County that the short-range and long-range transportation plans be carried into execution, and

WHEREAS, the necessary financial contribution comes from the per capita fee paid by Delaware County as a member of the Mid-Ohio Regional Planning Commission;

NOW THEREFORE, in consideration of mutual promises and covenants as herein contained, the parties hereto agree as follows:

1. That there shall exist a continuing, comprehensive, cooperative transportation planning process in accordance with the short-range and long-range transportation plans.
2. That MORPC is authorized per Ohio Revised Code Section 713.21 to:
 - b To act on behalf of the COUNTY to carry out the procedures and to promote the goals and objectives of the short-range and long-range transportation plans.
 - c To negotiate and conclude contracts and agreements of cooperation on behalf of the COUNTY pertaining to the execution of the continuing programs of the short-range and long-range transportation plans.
 - d To receive, hold and expend funds necessary for the execution of said continuing program.
 - e To do all things which the COUNTY individually may be authorized and empowered to do in furtherance of continuing, comprehensive, cooperative transportation planning.
3. That the COUNTY shall appoint representatives to the Transportation Policy Committee. Representatives may also be appointed to various advisory committees at the request of the Transportation Policy Committee.
4. That the COUNTY will provide MORPC with such information relating to all of the elements involved in the transportation planning process as may be deemed necessary or convenient, and will cooperate with MORPC in the establishment of a means of regular and systematic transmission of such information.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Absent Mr. Benton Aye

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RESOLUTION NO. 18-57

IN THE MATTER OF APPROVING A SERVICE CONTRACT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND FISHEL HASS KIM ALBRECHT LLP:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Deputy County Administrator recommends approval of the Contract for Services between the Delaware County Board of Commissioners and Fishel Hass Kim Albrecht Downey LLP;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the Contract for Services between the Delaware County Board of Commissioners and Fishel Hass Kim Albrecht Downey LLP:

CONTRACT FOR SERVICES FOR DELAWARE COUNTY, OHIO

THIS AGREEMENT, made this 18th day of January 2018, by and between the Delaware County Board of County Commissioners, hereinafter "County" and Fishel Hass Kim Albrecht Downey LLP, Columbus, Ohio, hereinafter "Attorneys."

WITNESSETH:

WHEREAS, the County is desirous of securing the services of the Attorneys to assist and represent the County in matters of human resource personnel management, civil service, and public sector issues, labor relations, and negotiations, such other and further matters that may affect or come before the County and as directed by the County; and

WHEREAS, the results of the decisions regarding such matters have a very significant fiscal and operational

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impact on the County; and

WHEREAS, the County has determined that certain legal, technical, and professional assistance will enable them to participate more effectively in these processes; and

WHEREAS, Fishel Hass Kim Albrecht Downey LLP, is experienced and willing to perform the above services, wherein there is an agreement specifying the rights and duties of each party;

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows.

ARTICLE 1 SCOPE OF WORK

The Attorneys will perform services in assisting the County as may be instructed by the County, including advice and services in order for the County to carry out their human resource management, civil service administration, labor relations programs and other matters. Such services to the County include:

- A. To provide necessary assistance, research, and analysis with respect to the specific issues that develop in matters that come before the County and to advise and/or represent the County in matters as directed by the County;
- B. To advise the County as to the implications of both economic and noneconomic issues raised in both formal and informal bargaining sessions, along with the implications of the existing personnel practices and collective bargaining agreements, if any;
- C. To advise the County and participate in both formal and informal bargaining sessions with the representatives of the various employee organizations that may represent employees with the County; and
- D. To provide any other necessary representation to the County's management personnel and elected officials throughout specific negotiating periods and, at the request of the County, on other matters relating to the County's labor relations program, civil service, or as otherwise directed.

ARTICLE II CONSIDERATION AND TERM OF CONTRACT

The compensation of the Attorneys shall be on the basis of an hourly rate of one hundred ninety dollars (\$ 190) per hour for all time expended by Partners on behalf of the County, and one hundred seventy-five dollars (\$175) per hour for all time expended by Associates on behalf of the County. The term of the contract shall be for a period beginning January 1, 2018 and ending December 31, 2018. The Attorneys shall be compensated for all necessary and reasonable costs incurred exclusive of normal administrative costs. The Attorneys shall be compensated for all actual hours of work performed for the County including those hours for consultation, assistance, research, and preparation.

The Attorneys shall bill for services and costs on a monthly basis with compensation to be payable within thirty (30) calendar days after billing. The Attorneys shall provide the County with monthly billings setting forth, in itemized detail, all time charges and reasons therefore, along with all necessarily incurred disbursements and expenses and reasons therefore.

This Agreement may be canceled by either party upon notice, in writing, delivered upon the party thirty (30) days prior to the effective date of cancellation. If such cancellation should be by the County, the County will be obligated to pay for the amount of work completed by the Attorneys. The parties further agree that should the Attorneys become unable for any reason to complete such work called for by virtue of this Agreement, that such work as the Attorneys have completed to the date of their inability to continue the terms of this Agreement shall become the property of the County as full discharge of Attorneys' liability hereunder without obligation for additional payment.

ARTICLE III CONTRACT CONSTRUCTION AND ADMINISTRATION

The parties expressly agree that this Agreement shall not be assigned by either party. The Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio. The obligations of the County under this Agreement shall be subject to the applicable provisions of the Ohio Revised Code.

The Agreement constitutes the entire understanding between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

If any term or provision of this Agreement or the application thereof to any person or circumstances should, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be effected thereby, and each remaining term and provision of this Agreement shall 'be valid and enforced to the fullest extent permitted by law.

Notwithstanding any provisions herein contained, it is expressly understood and agreed that the County

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shall not be construed or held to be a partner, associate, or joint venturer of the Attorneys in the conduct of the provisions of this Agreement. The Attorneys shall at all times have the status of an independent contractor without the right or authority to impose tort or contract liability on the County for contracts entered into by the Attorneys with third parties.

The County agrees to make available to the Attorneys all necessary records in the custody of the County and the assistance of all appropriate department employees, as the Attorneys may need for carrying out the work under this Agreement within legal limitations.

The parties agree that subsequent to the stated ending date of this Agreement, the Agreement and its terms shall remain in effect and automatically renew for successive thirty (30) day periods unless either party cancels this Agreement through the procedures stated herein.

ARTICLE IV MISCELLANEOUS TERMS & CONDITIONS

Non-Discrimination: The Attorneys hereby certify that they are—and shall, for the life of this Agreement, remain—in compliance with all applicable Federal, State, and Local laws, rules, and regulations in regard to equal opportunity employment and nondiscrimination. In the event the Attorneys are determined, by the final order of a court or appropriate administrative agency, to be in violation of any applicable Federal, State, or Local law, rule, or regulation in regard to equal opportunity employment or nondiscrimination, this Agreement may be immediately terminated, in whole or in part, and Attorneys may be ruled ineligible for future contracts with the County.

Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

Professional Liability Insurance: Throughout the life of this Agreement, the Attorneys agree to maintain, current and without lapse, professional liability insurance in an amount adequate to protect it and the County against any and all liability arising from the professional services provided under the Agreement. At any time throughout the life of the Agreement the County may request proof of such insurance, which shall be promptly provided upon request.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

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RESOLUTION NO. 18-58

IN THE MATTER OF ACCEPTING THE WELLNESS PROGRAM GRANT FUNDS FROM, AND APPROVING THE WELLNESS GRANT AGREEMENT WITH, THE COUNTY EMPLOYEE BENEFITS CONSORTIUM OF OHIO (CEBCO) FOR THE DELAWARE COUNTY WELLNESS PROGRAM:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, Delaware County is eligible to receive Wellness Programming funds in the amount of \$22,673 for calendar year 2018 from CEBCO for employee wellness programming and administrative costs;

NOW THEREFORE BE IT RESOLVED: That the Delaware County Board of Commissioners hereby accepts the 2018 CEBCO Wellness Grant funds and approves the Wellness Grant Agreement:

2018 CEBCO Wellness Grant Agreement

Grantor: County Employee Benefits Consortium of Ohio (CEBCO)
Grantee: Delaware County

Grant Funding Amounts

Administrative Funds: \$4,000
Program Funds: \$21,792

County Wellness Contact (CWC)

CEBCO asks for the cooperation of each county in designating one employee to act as a point of contact for the wellness grant and incentive program, known as the County Wellness Contact (CWC). While others including wellness committee members, non-county employees and/or brokers may be involved with the oversight of the county wellness program, the designated contact must be an employee of the county. This individual will work directly with CEBCO and will be the primary source of information to the employees and members in the county they represent.

The CWC's role is designed to be the liaison between CEBCO and the county employees and spouses

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eligible for the wellness program. The ewe plays a significant role in determining programming, identifying existing and local resources, communicating initiatives, motivating others, working with department heads to gain and maintain support, tracking data and information, all while demonstrating a genuine interest in health and wellness. Finally, this individual is responsible for attending CEBCO wellness meetings or designating another county representative to attend in their place.

If the CWC position should become vacant, please notify CEBCO immediately. If there is an interim contact that can be used while the position is getting filled, please inform CEBCO. It is important that this position be filled as soon as reasonably possible.

Administrative and Program Funds

Administrative funds are used toward the salary of the individual who oversees the grant and executes the employee wellness program, the County Wellness Contact (CWC). Each member county will receive a flat \$4,000 per grant year in administrative funds.

Program funds must be used for wellness-related events, activities, and initiatives provided to CEBCO enrolled employees and spouses. We acknowledge that some programs, such as educational sessions may inadvertently reach beyond CEBCO-covered members and impact individuals not our medical plan. The intent, however, is to focus on positively impacting the lives of members on our medical plan.

These program funds may also be used to cover any wellness training or meeting-related expenses for the ewe position. Program grant funding available to each county will be determined on a per employee, per year (PEPY) basis. A census of the eligible employees from the last quarter of the year will be used for this calculation.

CEBCO will provide half of the program funds in addition to the administrative funds at the start of the calendar year, following a fully executed grant agreement. The remaining half of the program funds will be provided on a reimbursable basis. The first half of the program funds provided to the county must be expended and a financial form must be submitted documenting those expenses, before the county may request any portion of the second half.

The county has the option to use the administrative funds as program funds. If the county chooses to use the administrative funds toward salary, as it is intended, the county is not required to report the expense; however, if the county uses any portion of the administrative funds for programming, documentation must be submitted to CEBCO verifying how the funds were used.

Additionally, it is up to the discretion of each participating county whether the program funds will be used to supplement the salary of the ewe position. CEBCO asks that the total wages be limited to no more than twenty percent (20%) of the annual amount allotted for program funds. This twenty percent of program funds may be used in addition to the administrative funds.

The administrative funds plus half of the program funds for the grant year will be provided in one check made out to the County Commissioners. The check will be mailed directly to the Commissioner's office at the start of each calendar year. The grant cycle runs January to December, annually. Unused funds do not roll over from year to year.

Documenting Use of Program Funds

The Wellness Grant Financial Form will need to be submitted along with documentation verifying each expense purchased with program funds. Acceptable documents include receipts, copies of checks, and invoices. Once documentation is submitted to CEBCO, reimbursement, if needed, will be sent directly to the County Commissioners' Office within 60 days. Checks are typically sent once at the beginning of each month. A county may submit a Wellness Grant Financial Form multiple times per year or once at the end of the calendar year. The deadline to submit documentation for the 2018 grant is Friday, December 7, 2018. Please note that CEBCO is unable to directly pay any vendor or private company and all checks will be made payable to the County Commissioners.

Mandatory Uses of Program Funds

Each county must offer each of the following during 2018:

1. A minimum of one onsite health screening event, giving eligible participants of the CEBCO program an opportunity to earn their health screening credit toward their incentive. The onsite screening event may be administered by Interactive Health or the county may choose to work with a different medical vendor, such as a local hospital, that must agree to send in all individual screening results to Interactive Health. The onsite health screening must be offered prior to September 1, 2018 when the program year ends.
 - o NOTE: If the county offered an onsite screening event in the fall of 2017, this requirement becomes optional.
 - o IMPORTANT NOTICE: If a county should cancel their participating agreement as a member with CEBCO effective January 1, 2019, yet schedule and/or offer onsite screening events after September 30, 2018, the county will be responsible for any costs associated with the events.

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2. A minimum of three onsite educational sessions provided for employees and spouses eligible for the CEBCO/StayWell program. The educational sessions must be 30-60 minutes each with a focus on any health or wellness topic.
3. Host a minimum of one onsite community lifestyle program OR promote a minimum of one offsite community lifestyle management program. A community lifestyle management program must focus on any one or combination of the following: nutrition, exercise, stress, sleep, financial wellbeing or tobacco use. The program must be at least three (3) thirty (30) minute sessions (a continued series) and may be provided in a group or one on one setting. Examples include diabetes management, Weight Watchers, tobacco cessation, nutrition or financial classes, or any other program that addresses one or more health conditions.
4. Host a minimum of one community event AND/OR promote a minimum of one community event. Community events include any organized walk, run, or bike event and sports league participation.
5. Promote a minimum of one online health challenges offered through Interactive Health.
6. Host or promote a minimum of one exercise/fitness program or course (3 or more classes). This program could be onsite or offsite.

At the end of the calendar year CEBCO will request documentation that each of these six mandatory requirements were met between January 1, 2018 and December 31, 2018.

Optional Uses of Program Funds

The county may choose from the list provided in Appendix 1 (pages 4 & S) for any other uses of program funds. If the county would like to spend funds in any manner not listed in the appendix, please contact a CEBCO Wellness Coordinator for written approval.

Restricted Uses of Program Funds

The following are uses that do not meet the goals of the grant and therefore are not allowable expenses:

- Giveaways that do not support individual wellness (this includes gift cards to fast food, restaurants, or any other food-related purchase EXCEPT for purchasing healthy options such as produce).
- Sponsoring individuals for marathons or specific events that not all members are able to do.
- Alcohol or drug testing (this includes tobacco testing).
- Any insurance covered benefits (i.e. flu shots, biometric screenings, doctor's visits, etc.).
- Essential oils and health supplements.

APPENDIX 1: EVIDENCE-BASED WELLNESS PRACTICES & OTHER APPROPRIATE USES OF FUNDS

1. Promote stair-well use through signage in all buildings that have stairs. Purchase stands or wall frames for these signs. If there are stairwells that have closed doors, prop the doors open so that people see them if not prohibited by fire code. Any necessary stairwell improvements in relation to a promotional campaign are allowable.
2. Offer onsite fitness classes. You may need to offer several in different locations to accommodate everyone. These can be offered during the lunch hour, before work, or after work. A portion or all of the cost for the class can be paid for with the CEBCO grant. Purchasing supplies needed for a class such as yoga mats, stretch bands, pedometers, fitness videos, etc. is allowable.
3. Determine if there is any adequate space for fitness equipment in department buildings. If so, the county may purchase fitness equipment and make improvements to this area for employees to utilize.
4. Offer a reward for attending fitness centers - for example, a reimbursement or cash reward for attending a certain number of times per month (minimum of 12 times = 3 visits per week). Most fitness centers will do an attendance printout for the employee; if not, this can be self-reported. Also, find out if any local fitness centers will bill the county for a portion of the employee membership or cost to take fitness classes at their facility.
5. Print and post indoor and outdoor walking maps in departments. GIS or the county mapping department should be able to provide outdoor maps for each department showing 1 and 2 mile walking routes.
6. Purchase outdoor bike rack(s) for any building or county grounds that are considered pedestrian friendly.
7. Provide cold unflavored drinking water at no charge to the employees. For example, a 5-gallon water cooler can replace the vending machines or supplement them. Employees are more likely to drink water when it is readily available to them.
8. Work with any existing vending companies to ensure that all snacks available for purchase are 200 calories or less per serving and less than 30% are fat calories. You can also consider doing away with vending completely or going with refrigerated vending where yogurt, sandwiches, and fruit can be offered.
9. Offer group cooking classes/demos or make a Registered Dietician or Health Coach available for employees to have a one-on-one consultation. This can be onsite or offsite at a convenient location, such

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- as a local hospital. Many grocery stores offer free nutrition/education tours with a dietician.
10. Partner with a local farmers market- ask about discounts, coupons, or other incentives to get county employees to purchase fresh foods. The county may purchase gift certificates for employee use at the market. Find out if they would be willing to offer the market during a week day and in a location where employees have access to it during their lunch breaks or after work.
 11. Implement a 100% smoke-free environment by removing all designated smoking areas, creating a written policy, and posting appropriate signage. A sample policy can be requested from CEBCO.
 12. Partner with a local hospital or OSU Extension office to offer classes that focus on healthy eating, finances, stress, tobacco use, exercise, weight management, etc.
 13. Purchase a wellness bulletin board for each department to display and promote any wellness related information. Consider other means of communication, such as posting flyers in bathroom stalls, using the employee intranet or social media.
 14. Purchase kitchen equipment that encourages employees to pack their lunch daily and eat healthier.
 15. Allow employees to maintain a vegetable garden, either on county grounds or using containers; may purchase the supplies and equipment to provide this.
 16. Organize physical fitness events, such as softball or basketball tournaments or annual walks.
 17. Encourage employees to stand more throughout the work day. This might include offering a working treadmill station placed in a central location and/or providing the appropriate office equipment to allow employees to stand at their desk.
 18. Provide ways for employees to destress throughout the workday. This might include bringing in a massage therapist to conduct 10-15 minute massages on a weekly or monthly basis, offering a relaxation/meditation room for employees to use during their breaks and lunches, offering classes on relaxation techniques, etc.
 19. Costs to cover the wellness contact's (and wellness committee members) attendance at wellness related training events, such as conferences, seminars and meetings.
 20. Costs for employee wellness incentives, such as, gift cards, healthy food items, pedometers, healthy cook books, salad shakers, water bottles, and other personal wellness giveaways. Please note that any incentives given to employees must be wellness related and/or promote healthy behaviors.
 21. Promote CEBCO wellness programs and services regularly. This includes the activities within the CEBCO/StayWell program, Quit Line, and our disease management programs through Anthem. Communication materials are available on the CEBCO website or upon request.

NOTE: Participation in any onsite fitness events or classes and/or use of onsite fitness equipment should require every participant to complete a liability waiver approved by the County Prosecutor.

APPENDIX 2: CEBCO Incentive Program

Program & Incentive Design

The CEBCO incentive program is a monetary reward-based program that runs generally from October to October. Each member county in conjunction with CEBCO will make a decision as to which program plan will be offered to eligible participants, each year. There are two plans with regard to program design. Plan 1 is the base plan and requires the least completion of wellness activities at the participant level. Plan 2 requires additional activity completions in order to earn the monetary incentive.

Participants who complete the program will earn the specified monetary incentive, as indicated below. CEBCO will pay the total incentive earned in one lump sum to the County Commissioners Office at the end of each calendar year. Each county is responsible for distributing the below incentive to each employee or spouse who completed the program. The county may increase the incentive amount, but may not reduce it.

- Plan 1= \$150 annually
- Plan 2 = \$200 annually

CEBCO will provide a separate document annually to include the detailed activities and design of each program plan. The plan selection will be made by each member county at the end of each program year for the upcoming program year. For new counties, the program plan selection must be made at least 30 days prior to their effective date with CEBCO.

Regulations on Annual Incentives

Annual employee wellness incentives may not exceed 30% of the total cost of the lowest single plan coverage for the year. For example, if there is only one plan available for single plan coverage, the calculation is 30% of the total cost for that plan for the year. If there is more than one single plan offered, the plan that costs the least will be used to calculate the 30% max on the annual incentive. If an employee has a spouse covered on their plan that is eligible for wellness, the employee is eligible to earn an additional 30%. These regulations stem from the United States Department of Labor {DOL} and Equal Opportunity Employment Commission {EEOC}. Please be sure to review these regulations.

Program Eligibility

All employees and spouses on the CEBCO medical plan are eligible for this incentive program. The program is optional at the participant level, but required to be offered to employees and spouses at the county {employer}

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level. The employee and spouse will complete the program separate of each other, meaning that an employee may complete it and not their spouse or vice versa. Incentives are paid to the employees.

Incentives & Elective Officials

Per Ohio Revised Code, any elected official that is not beginning a new term during the current program year will not be eligible for the monetary incentive even if they complete the program. Elected officials also cannot receive an increase in an incentive they have been receiving if they are in term; an increase can only occur at the start of a new term. Any elected official impacted by this may complete the program, but is not able to earn the incentive for completing it. It is ultimately the county's responsibility to properly administer incentives to elected officials, based on the ORC. CEBCO will distribute incentives to elected officials as directed by the county and we encourage all elective officials to participate, as they are eligible to complete program regardless of whether or not they may earn the incentive.

APPENDIX 3: WELLNESS INCENTIVE TAX IMPLICATIONS

The chart below provides some examples of employee wellness incentives, their tax treatment, and the appropriate legal sources. The list is not comprehensive. Please realize there may be unique circumstances that general guidelines cannot address. We strongly urge you as the Plan Sponsor to consult your own legal counsel and/or tax advisor regarding your specific situation.

EXAMPLES OF EMPLOYEE WELLNESS INCENTIVES	TAXABLE?	SOURCE
Cash, checks & gift cards	YES	IRC Section 61
De minimis awards (excluding cash, checks or gift cards)	NO	Treasury Regulation Section 1.132-6
Door prizes that are not de minimis such as iPads, large fitness equipment, etc.	YES	Treasury Regulation IRC Section 61
Wellness-related classes or instruction at the worksite that are not made available to the general public	NO	IRC Section 132 and Treasury Regulation Section 1.132-1(e)(1) and (2)

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Classes or memberships taught anywhere other than the worksite, including reimbursement for a gym membership	YES	IRC Section 61
The employee receiving a service that constitutes “medical care” such as biometric screenings, Health Risk Assessments and wellness coaching via telephone or internet	NO	IRC Sections 104, 105 and 106
Savings imparted to the employee in the form of a reduced health premium, given as a reward for completion of a wellness program	NO	IRC Sections 104, 105 and 106
Savings imparted to the employee in the form of a contribution to a Health Savings Account (HSA), given as a reward for completion of a wellness program	NO	Pub 969 – Contribution allowed only if HSA is in a cafeteria plan, due to comparability rules.
Savings imparted to the employee in the form of a contribution to a Voluntary Employees Beneficiary Association Plan (VEBA) account, given as a reward for completion of a wellness program	NO	IRC 106 IRC 505(b)(3) and other applicable nondiscrimination rules
Savings imparted to the employee in the form of a contribution to a Flexible Spending Account (FSA), given as a reward for completion of a wellness program	NO	IRC Section 105 IRC Section 125
Savings imparted to the employee in the form of a contribution to a Health Reimbursement Arrangement (HRA), given as a reward for completion of a wellness program	NO	IRC Section 105 and 106 Standard non-discrimination rules apply

Vote on Motion Mr. Merrell Absent Mr. Benton Aye Mrs. Lewis Aye

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RESOLUTION NO. 18-59

IN THE MATTER OF RANKING PROFESSIONAL DESIGN FIRMS FOR THE DELAWARE COUNTY FACILITIES MASTER PLAN UPDATE:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Whereas, the Delaware County Board of Commissioners received a total of eleven Statements of Qualifications from professional design firms for the Historic Courthouse Renovation; and,

Whereas, a review committee has reviewed the qualifications and has ranked the top three firms they found to be the most qualified firms; and,

Whereas, the Ohio Revised Code section 153.69 (A) requires the public authority to select and rank no fewer than three firms which it considers to be the most qualified to provide the required professional design services; and,

Whereas, the review committee recommends the top three most qualified firms be ranked as 1 - Schooley Caldwell, 2 - Silling Associates, Inc., and 3 - Moody Nolan, Inc.

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Delaware County hereby rank the following professional design firms for the Facilities Master Plan Update and per the Ohio Revised Code section 153.69 (B), enter into contract negotiations with the firm ranked most qualified to perform the required services:

1. Schooley Caldwell
2. Silling Associates, Inc.
3. Moody Nolan, Inc.

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Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Absent

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

-Tiffany Maag and I made a presentation at the BIA this week about what happens now that the Master Sewer Plan has been approved. It was a good opportunity to meet the new director, Jonathan Melchi.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Benton

-Attended a Transportation Improvement District (TID) meeting last week. There seems to be continued interest creating one. There are currently 33 counties who have TIDs.

Commissioner Lewis

-Attended the MLK breakfast at Ohio Wesleyan on Monday. The County and the City were recognized for their proclamations.

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RESOLUTION NO. 18-60

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of to consider the purchase of property for public purposes; for pending or imminent litigation.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Absent Mr. Benton Aye

RESOLUTION NO. 18-61

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to adjourn out of Executive Session.

Vote on Motion Mr. Benton Aye Mr. Merrell Absent Mrs. Lewis Aye

Recessed until 1:30 PM/Reconvene 1:32 PM

RESOLUTION NO. 18-62

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR TO CONSIDER THE PURCHASE OF PROPERTY FOR PUBLIC PURPOSES; FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of to consider the purchase of property for public purposes; for pending or imminent litigation.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

RESOLUTION NO. 18-63

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IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to adjourn out of Executive Session.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners