

COMMISSIONERS JOURNAL NO. 71 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD APRIL 8, 2019

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

Present:
Barb Lewis, President
Jeff Benton, Vice President
Gary Merrell, Commissioner

1
RESOLUTION NO. 19-296

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD APRIL 4, 2019:

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

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on April 4, 2019; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.11 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 Aye Mrs. Lewis Aye Mr. Benton Aye

2
PUBLIC COMMENT

3
RESOLUTION NO. 19-297

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0405:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0405 and Purchase Orders as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase			
DATA (P1901203)	Job & Family Client Transportation	22411601-5355	\$ 40,000.00
Fortis College (P1901939)	Job & Family Client Program	22311611-5348	\$ 6,000.00
MTC (P1901964)	Job & Family Client Program	22311611-5348	\$ 2,000.00

<u>PR Number</u>	<u>Vendor Name</u>	<u>Line Description</u>	<u>Line Account</u>	<u>Amount</u>
R1902301	SPEAKWRITE LLC	TRANSCRIPTION SERVICES	22511607 -	\$24,000.00
		5 1 19-4 30 20	5301	
R1902673	HONEYWELL INC	HVAC BUILDING	40111402 -	\$265,000.00
		CONTROLS - JAIL	5410	
R1902811	COMMISSIONERS	2019 CENTRAL COST	66211900 -	\$129,793.00
		ALLOCATION	5380	
R1902816	DLZ OHIO INC	SERVICES 2019-2020	66211900 -	\$49,900.00
			5301	
R1902817	BLUES AUTO SERVICE INC	REPAIR 21-3	60111901 -	\$5,821.76
			5370	
R1902824	CBTS LLC	VOIP PHONE SERVICE	22411605 -	\$15,000.00
			5330	
R1902833	ATLAS BUTLER HEATING & COOLING	MAINTENANCE CHECK	66211900 -	\$10,000.00
			5328	
R1902844	COUNTY RISK SHARING AUTHORITY	CORSA PROGRAM	60111901 -	\$359,100.00
		RENEWAL 2019-2020	5370	
R1902845	BLUES AUTO SERVICE INC	21-6 REPAIRS DOL 03.27.19	60111901 -	\$4,642.21
			5370	
R1902845	BLUES AUTO SERVICE INC	21-15 REPAIRS DOL 03.29.19	60111901 -	\$1,077.68
			5370	
R1902845	BLUES AUTO SERVICE INC	21-17 REPAIRS DOL 03.29.19	60111901 -	\$750.12
			5370	
R1902845	BLUES AUTO SERVICE INC	21-20 REPAIRS DOL 03.29.19	60111901 -	\$4,782.05
			5370	
R1902846	BLUES AUTO SERVICE INC	21-3 REPAIR	60111901 -	\$5,821.76
			5370	
R1902847	COUNTY RISK SHARING	NICHOLSON CLAIM FEES	60111901 -	\$23,641.79

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	AUTHORITY		5370		
R1902851	BKM CONSTRUCTION LLC	NEW STEPS SIDEWALK - CARNEGIE BUILDING	40111402 - 5328	\$21,353.19	

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

**4
RESOLUTION NO. 19-298**

IN THE MATTER OF APPROVING TRAVEL EXPENSE REQUESTS:

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

Juvenile Court is requesting that Lisa Williamson attend a Restorative Justice Conference in Denver Colorado June 13-17, 2019, at the cost of \$2,640.00 (fund number 26526304).

Juvenile Court is requesting that April Nelson attend a Restorative Justice Conference in Denver Colorado June 13-17, 2019, at the cost of \$2,640.00 (fund number 26526304).

The Administrative Services, Records Center Department, is requesting that Christine Shaw attend an Innovative Strategies To Lead In Today’s Complex Environment Session in Dublin, Ohio May 15, 2019, at the cost of \$227.20 (fund number 10011103).

The Administrative Services, Records Center Department, is requesting that Christine Shaw participate in a NAGARA (National Association of Government Archives and Records Administrators) 2019 Spring Online Forum April 26, 2019, at the cost of \$49.00 (fund number 10011103).

The Child Support Enforcement Agency is requesting that Joyce Bowens, Tanya Kidd, Wendy Shannon, Teresa Klabus, Margaret Long, Sherry Fleury and Lisa Thompson attend the Ohio Child Support Directors’ Association Spring Symposium at various times April 15-16, 2019 (fund number 23711630).

The Regional Sewer District is requesting that Kelly Thiel attend a River Rally 2019 Conference in Cleveland, Ohio from June 21- 24, 2019 at a total cost of \$1,114.00 from fund 66211900.

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

**5
RESOLUTION NO. 19-299**

IN THE MATTER OF A NEW LIQUOR LICENSE REQUEST FROM CENTER VILLAGE INC. (DBA CENTERVILLE MARKET) AND FORWARDING TO THE OHIO DIVISION OF LIQUOR CONTROL WITH NO OBJECTIONS AND NO REQUEST FOR A HEARING:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following resolution:

Whereas, the Ohio Division of Liquor Control has notified the Delaware County Board of Commissioners of a new liquor license request from Center Village Inc. (DBA Centerville Market), located at 13342 Center Village Road, Galena, Ohio 43021; and

Whereas, the Delaware County Board of Commissioners has found no reason to file an objection;

Now, Therefore, Be it Resolved that the Clerk of the Board shall complete the necessary forms and notify the Ohio Division of Liquor Control that no objections are made and no hearing is requested by this Board of County Commissioners.

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

**6
RESOLUTION NO. 19-300**

IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD AND THE DELAWARE SOIL AND WATER CONSERVATION DISTRICT:

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

WHEREAS, the County Auditor recommends approval of an Intergovernmental Cooperation Agreement with the Delaware Soil and Water Conservation District for Information Technology Services;

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NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves an Intergovernmental Cooperation Agreement between the Delaware County Board of Commissioners, the Delaware County Automatic Data Processing Board, and the Delaware Soil and Water Conservation District for Information Technology Services:

INTERGOVERNMENTAL COOPERATION AGREEMENT

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 1st day of April, 2019 by and between the Delaware County Automatic Data Processing Board and the Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015 (collectively, the “County”), and the Delaware Soil and Water Conservation District, 557-A Sunbury Rd. Delaware, Ohio 43015 (the “DSWCD”), (hereinafter referred to individually as “Party” or collectively as the “Parties”).

Section 2 – Purpose

This Agreement is authorized by sections 9.482, 307.846, and 307.15, et seq., of the Revised Code. The DSWCD desires to enter into an agreement with the County that allows Delaware County Information Technology staff to provide Information Technology (“IT”) services and Support Staff and Resources (“County Resources”) to the DSWCD, and the County is willing and able to provide such services and resources. This Agreement shall establish the terms and conditions for contributions of the Parties.

Section 3 – Contributions of the Parties

The DSWCD shall pay, as specified below, for IT services provided. The County, via the Delaware County Data Center Administrator, shall administer the IT services on behalf of the DSWCD, supervise the work of the staff, and advise the DSWCD regarding IT projects. The specific services to be provided are more fully set forth in Exhibit A, which is attached hereto and, by this reference, fully incorporated herein. The specific County Resources are also more fully set forth in the attached Exhibit A.

Section 4 – Compensation

The DSWCD agrees to pay the County \$85.00 per Microsoft Exchange email license provided to the DSWCD.

There shall be no compensation paid by the DSWCD to the County for County Resources.

Section 5 – Records

- 5.1 County and DSWCD acknowledge and agree that DSWCD data received by County in the course of providing the IT services under this Agreement is taken delivery of solely under the authority stated above and only to provide automatic or electronic data processing, data storage services and/or other IT services to DSWCD.
- 5.2 County and DSWCD acknowledge and agree that this data is not a public record [as defined in R.C. Section 149.011(G)] of the County or any of its offices, agencies, etc., that County is not the keeper or person responsible for any record contained in such data or otherwise responsible for providing inspection or copies of the same and that any records contained within the same shall at all times be considered DSWCD records and not properly the subject of a public records request directed to the County under R.C. Section 149.43.
- 5.3 However, to assist DSWCD in meeting its responsibilities:
 - (a) County will maintain full access by DSWCD to the DSWCD’s data stored in its system.
 - (b) If County receives a public records request for DSWCD records contained in such data, it will inform the requester that the information requested is not a public record of the County and that their request will be forwarded to the DSWCD Administrator as the individual responsible for DSWCD records. County will then immediately forward the request to the DSWCD Administrator and advise them as to the circumstances of the request and its receipt.
 - (c) County will provide technical assistance to the DSWCD Administrator, as requested, in compiling and delivering DSWCD data responsive to a public records request.
- 5.4 If the County should ever determine that it is legally compelled by any means (including public records request under R.C. 149.43, deposition, interrogatory, request for documents, subpoena, civil investigative demand, etc.) to disclose DSWCD data received or stored under this Agreement, it must make reasonable efforts to provide DSWCD with prompt notice of such legal requirement prior to disclosure so that DSWCD may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, County will: (I) furnish only that portion of the data that it is legally required to

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furnish; and (ii) cooperate with DSWCD in reviewing such material for appropriate redaction prior to disclosure.

- 5.5 Upon termination or expiration of this Agreement, County will return all DSWCD data to DSWCD and shall not retain copies of all or any portion of it within its system.
- 5.6 The Parties agree that each shall maintain their respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records.

Section 6 – Term

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect until March 31, 2020, whereupon this Agreement shall then automatically renew for successive one (1) year terms, unless either Party gives notice to the other Party that it does not intend to renew the Agreement at the expiration of the then-current term. Notice of intent to terminate must be in writing and received by the opposite Party no later than thirty (30) days prior to the intended termination date. This Agreement may be amended in writing with the mutual consent and agreement of the Parties.

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 – Personnel

The Parties each agree to maintain control over their respective personnel, and this Agreement shall not be construed to alter the employment relationship each Party has with its respective personnel. Each Party shall be responsible for the compensation, benefits, and liabilities of its respective personnel and hereby agrees to release the other Party from any responsibility therefor. In no event shall County's employees be considered employees of the DSWCD within the meaning or application of any federal, state or local laws or regulations and vice versa.

Section 9 – Equipment and Facilities

Each Party to this Agreement shall be responsible for providing its own equipment and facilities. In no way shall this Agreement be construed to require the sale or donation of equipment under the ownership and control of either Party of this Agreement.

Section 10 – Insurance and Liability

Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

The DSWCD acknowledges that there is a risk of disruption of service to its IT equipment and service due to damage to the fiber optic cable and other equipment or system failures beyond the control of the County. As a condition of this Agreement, the DSWCD agrees to release the County from any liability or costs due to such disruption of service.

Section 11 – Miscellaneous Terms & Conditions

- 11.1 **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.
- 11.2 **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.
- 11.3 **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. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 11.4 **Waivers**: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver

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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.

11.5 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.

Exhibit A

Provision by County of general IT services required for DSWCD business, including, but not limited to:

Provision of DSWCD email accounts on the existing County email server (DSWCD will pay for licenses)

The DSWCD shall seek prior approval of the county Chief Technology Officer for any projects outside of Exhibit A, including but not limited to custom programming, prior to engaging IT staff.

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

7

RESOLUTION NO. 19-301

IN THE MATTER OF AUTHORIZING PARTICIPATION IN THE OHIO LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) FROM TERESA J. WATKINS:

It was moved by Mr. Merrell, seconded by Mr. Benton to adopt the following Resolution:

WHEREAS, on the 8th day of April, 2019 the Board of Commissioners of Delaware County (the "Board") received a request from Teresa J. Watkins (the "Landowner(s)") for support of their application to the State of Ohio for purchase of an agricultural easement on their property located in Radnor Township on Thomas Road Radnor, Ohio Parcel ID's #62048001003000 and 62048001005000. Collective acreage of approximately 117.30 acres.

WHEREAS, the Board has reviewed this request and determined that the nomination of the property for purchase of an agricultural easement is compatible with the county's goals to preserve and promote agriculture as an important part of the area's economy; and

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

Section 1. The Board hereby supports the participation of the Landowners in the LAEPP and acknowledges that participation in the LAEPP does not conflict with any existing or proposed land use plans of Delaware County.

Section 2. The Board hereby certifies that the Landowners have, as a part of their application, committed to donate at least twenty-five percent (25%) of the agricultural easement value as the required local match.

Section 3. The Board hereby agrees, in conjunction with the Delaware Soil and Water Conservation District, to monitor, supervise, and enforce the deed of agricultural easement on behalf of the Director of the Department of Agriculture.

Section 4. The Board hereby finds that all formal actions of the Board relating to the adoption of this Resolution were taken in an open meeting of the Board in compliance with all legal requirements of R.C. 121.22.

Section 5. The Board hereby directs the Clerk of the Board to certify copies of this Resolution to the Landowners and the Department of Agriculture, Office of Farmland Preservation.

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

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RESOLUTION NO. 19-302

IN THE MATTER OF AUTHORIZING PARTICIPATION IN THE OHIO LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) FROM GARY L. AND YVONNE G. NEWHOUSE:

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It was moved by Mr. Benton, seconded by Mr. Merrell to adopt the following Resolution:

WHEREAS, on the 8th day of April, 2019 the Board of Commissioners of Delaware County (the "Board") received a request from Gary L. and Yvonne G. Newhouse (the "Landowner(s)") for support of their application to the State of Ohio for purchase of an agricultural easement on their property located in Scioto Township on Burnt Pond Road Ostrander, Ohio Parcel ID's #20030001041000. Acreage of approximately 70.01 acres.

WHEREAS, the Board has reviewed this request and determined that the nomination of the property for purchase of an agricultural easement is compatible with the county's goals to preserve and promote agriculture as an important part of the area's economy; and

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

Section 1. The Board hereby supports the participation of the Landowners in the LAEPP and acknowledges that participation in the LAEPP does not conflict with any existing or proposed land use plans of Delaware County.

Section 2. The Board hereby certifies that the Landowners have, as a part of their application, committed to donate at least twenty-five percent (25%) of the agricultural easement value as the required local match.

Section 3. The Board hereby agrees, in conjunction with the Delaware Soil and Water Conservation District, to monitor, supervise, and enforce the deed of agricultural easement on behalf of the Director of the Department of Agriculture.

Section 4. The Board hereby finds that all formal actions of the Board relating to the adoption of this Resolution were taken in an open meeting of the Board in compliance with all legal requirements of R.C. 121.22.

Section 5. The Board hereby directs the Clerk of the Board to certify copies of this Resolution to the Landowners and the Department of Agriculture, Office of Farmland Preservation

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

9
RESOLUTION NO. 19-303

IN THE MATTER OF AUTHORIZING PARTICIPATION IN THE OHIO LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) FROM STB3 LLC:

It was moved by Mr. Merrell, seconded by Mr. Benton to adopt the following Resolution:

WHEREAS, on the 8th day of April, 2019 the Board of Commissioners of Delaware County (the "Board") received a request from STB3 LLC (the "Landowner(s)") for support of their application to the State of Ohio for purchase of an agricultural easement on their property located in Kingston Township on Todd Street Road, Sunbury Ohio Parcel ID's #51720001022000 and 51720001024002. Collective acreage of approximately 91.67 acres.

WHEREAS, the Board has reviewed this request and determined that the nomination of the property for purchase of an agricultural easement is compatible with the county's goals to preserve and promote agriculture as an important part of the area's economy; and

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

Section 1. The Board hereby supports the participation of the Landowners in the LAEPP and acknowledges that participation in the LAEPP does not conflict with any existing or proposed land use plans of Delaware County.

Section 2. The Board hereby certifies that the Landowners have, as a part of their application, committed to donate at least twenty-five percent (25%) of the agricultural easement value as the required local match.

Section 3. The Board hereby agrees, in conjunction with the Delaware Soil and Water Conservation District, to monitor, supervise, and enforce the deed of agricultural easement on behalf of the Director of the Department of Agriculture.

Section 4. The Board hereby finds that all formal actions of the Board relating to the adoption of this Resolution were taken in an open meeting of the Board in compliance with all legal requirements of R.C. 121.22.

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Section 5. The Board hereby directs the Clerk of the Board to certify copies of this Resolution to the Landowners and the Department of Agriculture, Office of Farmland Preservation.

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

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RESOLUTION NO. 19-304

IN THE MATTER OF AUTHORIZING PARTICIPATION IN THE OHIO LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) FROM ROBERT J. SHERMAN TRUSTEE:

It was moved by Mr. Benton, seconded by Mr. Merrell to adopt the following Resolution:

WHEREAS, on the 8th day of April, 2019 the Board of Commissioners of Delaware County (the "Board") received a request from Robert J. Sherman Trustee (the "Landowner(s)") for support of their application to the State of Ohio for purchase of an agricultural easement on their property located in Porter Township on Peerless Road, Centerburg Ohio Parcel ID's #51610001033000 and 51610001034000. Collective acreage of approximately 83.731 acres.

WHEREAS, the Board has reviewed this request and determined that the nomination of the property for purchase of an agricultural easement is compatible with the county's goals to preserve and promote agriculture as an important part of the area's economy; and

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

Section 1. The Board hereby supports the participation of the Landowners in the LAEPP and acknowledges that participation in the LAEPP does not conflict with any existing or proposed land use plans of Delaware County.

Section 2. The Board hereby certifies that the Landowners have, as a part of their application, committed to donate at least twenty-five percent (25%) of the agricultural easement value as the required local match.

Section 3. The Board hereby agrees, in conjunction with the Delaware Soil and Water Conservation District, to monitor, supervise, and enforce the deed of agricultural easement on behalf of the Director of the Department of Agriculture.

Section 4. The Board hereby finds that all formal actions of the Board relating to the adoption of this Resolution were taken in an open meeting of the Board in compliance with all legal requirements of R.C. 121.22.

Section 5. The Board hereby directs the Clerk of the Board to certify copies of this Resolution to the Landowners and the Department of Agriculture, Office of Farmland Preservation.

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

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RESOLUTION NO. 19-305

IN THE MATTER OF APPROVING THE 2019 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP) COOPERATIVE AGREEMENT BETWEEN THE OHIO DEPARTMENT OF AGRICULTURE AND THE DELAWARE COUNTY COMMISSIONERS:

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

**2019 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP)
COOPERATIVE AGREEMENT BETWEEN
THE OHIO DEPARTMENT OF AGRICULTURE
AND
DELAWARE COUNTY COMMISSIONERS**

This Cooperative Agreement (hereinafter "Agreement"), effective as of this 8th day of April 2019 by and between the State of Ohio, Department of Agriculture, located at 8995 East Main Street, Reynoldsburg, Ohio 43068, ("ODA") and Delaware County Commissioners, located at 101 North Sandusky Street; Delaware, OH 43015 ("Local Sponsor") (hereinafter collectively "Parties"), for the implementation of Local Agricultural Easement Purchase Program ("LAEPP") as authorized under Ohio Revised Code ("ORC") § 901.21, et. seq.

RECITALS

ORC § 901.21 authorizes the Director of Agriculture to utilize funding received from the Clean Ohio fund to

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purchase agricultural easements, in conjunction with eligible governmental and non-profit entities, for the purpose of protecting the agricultural uses of eligible land by limiting the non-agricultural uses of the land. To be eligible, the farm land must meet the criteria and further the purposes as provided in ORC § 901.22 and Ohio Administrative Code ("OAC") § 901-2-01, et seq.

WHEREAS, as the context may require, the singular may be read as the plural and the plural as the singular;

WHEREAS, the Local Sponsor and ODA have mutual interests in maintaining land in agricultural production and preventing the conversion of agricultural lands to non-agricultural uses;

WHEREAS, ODA administers the LAEPP through its Office of Farmland Preservation;

WHEREAS, Local Sponsor administers a farmland protection program, is a certified local sponsor as defined in OAC § 901-2-07 for LAEPP, and has opportunities to acquire agricultural easements from landowners within the County of Delaware in the State of Ohio; and

WHEREAS, ODA and Local Sponsor have agreed to combine their resources to assure that such areas are protected from conversion to nonagricultural uses.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be legally bound hereby, covenant and agree as follows:

AGREEMENT

ARTICLE I: BENEFITS

The funding allocated to the Local Sponsor by ODA in this Agreement will be used for the protection of Ohio farm lands against conversion to non-agricultural use.

ARTICLE II: SCOPE OF WORK

2.1 The Local Sponsor shall be responsible for the duties and obligations set forth in "Exhibit A - Scope of Work," attached hereto and incorporated herein by reference, in connection to the use of ODA funds as identified in Article IV of this Agreement. These funds are for the acquisition of agricultural easements on real estate ("Property") described in the attached "Exhibit B - Property/Funds," attached hereto and incorporated herein by reference.

2.2 Exhibit B shall be amended from time to time as Properties are selected in accordance with Exhibit A. For the purposes of this Agreement, "agricultural easement" shall be defined as provided in ORC § 901.21, et seq. Local Sponsor hereby represents and warrants that it will comply with all applicable federal and state laws, specifically including but not limited to OAC § 901-2-01, et seq. in performing its described obligations herein.

2.3 Local Sponsor warrants that it has the necessary background, education, training, and skills to provide ODA with the essential services required to carry out the Scope of Work included as Exhibit A herein. Local Sponsor further warrants that he/she will provide satisfactory efforts in the performance of the same. Satisfactory performance of work pursuant to these standards shall be determined in ODA's sole discretion. There will be no breach of this covenant if Local Sponsor is prevented from maintaining this standard by causes wholly beyond its control and without any default on its part.

2.4 All deeds will be drafted by ODA. Local Sponsor shall ensure that no changes are made to the deed at closing without the express knowledge and the prior written permission of ODA.

2.5 The agricultural easement closing ("Closing") in connection with each Property shall occur on a time and date mutually agreed to by the parties, but in no event later than June 30, 2019. Local Sponsor may receive an extension to this deadline with the prior written approval of ODA.

2.6 ODA may, from time to time as it deems appropriate and necessary, communicate specific instructions and requests to the Local Sponsor concerning the performance of the work described in this Agreement; including but not limited to, the performance of Closing Instructions. An example of which is provided in "Exhibit C -ODA Closing Instructions," which is attached hereto and incorporated herein by reference. Upon such notice and within a reasonable time, the Local Sponsor shall comply with such instructions and fulfill such requests to the satisfaction of ODA. It is expressly understood by the parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement.

2.7 The Local Sponsor shall retain responsibility for the management of the work, including the exclusive right to control or direct the manner or means by which the work described herein is performed. ODA retains the right to ensure that the work of the Local Sponsor is in conformity with the terms and conditions of the Agreement. Local Sponsor is to accept direction only from ODA in the performance of work contained in this Agreement and set forth in Exhibit A, Exhibit C, or other specialized instructions provided during the course

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of this agreement, unless explicitly stated otherwise in writing by ODA.

2.8 Nothing in this Agreement obligates ODA to complete the acquisition of an agricultural easement. There may be problems or issues which in the sole opinion of ODA require modifications, additions, or deletions to Exhibit B depending on the ability to obtain good and clear title and local input regarding the implementation of an agricultural easement. Additions to Exhibit B must have the written pre-approval from ODA. The additions and deletions must be made by a formal written amendment to this Agreement and must contain the same deadlines for closing for the acquisition of the agricultural easements and the request for payment.

ARTICLE III: TIME OF PERFORMANCE

3.1 The services as stated in Exhibit A shall be concluded by the Local Sponsor on or before June 30, 2019. Prior to the expiration of this Agreement, the parties may mutually agree to renew this Agreement as indicated in Paragraph 3.3 below.

3.2 This Agreement shall remain in effect until the work described in Exhibit A is completed to the satisfaction of ODA or until terminated as provided in Article VIII, Termination of Local Sponsor's Services, whichever is sooner. However, in no event will this Agreement continue beyond June 30, 2019, unless renewed as provided for herein.

3.3 As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 2019. This contract may be renewed, at ODA's option, for a period of one (1) year upon the same terms contained herein.

3.4 It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of ORC § 127.16.

ARTICLE IV: ODA'S OBLIGATION TO FUND

4.1 Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \$338,922.00 (Three Hundred Thirty-Eight Thousand Nine Hundred Twenty-Two and 00/100 Dollars) for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to Exhibit B.

4.2 ODA's contribution for the acquisition of each agricultural easement to be acquired by the Local Sponsor shall be up to but not more than seventy-five percent (75%) of the appraised value, as determined by ORC § 901.22 and OAC § 901-2-09, of the subject agricultural easement as provided in the Landowner Program Application.

4.3 If agricultural easements for all properties listed on Exhibit B are not closed, or payment for the agricultural easement is not requested by the mutually agreed closing date as provided in Exhibit A and previously stated herein, any remaining funds may be released from this obligation unless a written request to extend the closing or payment date is sent to ODA 30 days or less before such date, and approved in writing by ODA.

ARTICLE V: LOCAL SPONSOR CONTRIBUTION AND RESPONSIBILITIES

5.1 Local Sponsor must disburse one hundred percent (100%) of the payment, minus any cost or expense permitted by OAC § 901-2 et seq, representing the agricultural easement purchase price, to the landowner at the time of Closing, as that term is hereinafter defined. Local Sponsor shall pay all costs of the agricultural easement procurement and will operate and manage each agricultural easement in accordance with the Local Sponsor's program, this Agreement, and any relevant federal or state laws, regulations, or codes.

5.2 Local Sponsor shall not use ODA funds to acquire an agricultural easement on a property in which an employee or board member of the Local Sponsor, with decision-making involvement in matters related to easement acquisition and management, or their immediate family or household member, has a property interest. Local Sponsor agrees to generally conduct itself in a manner so as to protect the integrity of agricultural easements which it holds, avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of agricultural easements, and in compliance with Article XVIII: Ethics and Article XI: Conflicts of Interest, herein contained.

5.3 Local Sponsor agrees that it will not at any time, when the Local Sponsor is named as a Grantee in the agricultural easement, seek to acquire the remaining fee interest in the Property or otherwise enter into a partnership or joint venture wherein a partner has a fee interest in the Property.

5.4 When an agricultural easement violation is observed by Local Sponsor or reported to Local Sponsor by ODA, then Local Sponsor shall, after appropriate administrative and appeal rights, enforce the terms and conditions of the agricultural easement. Enforcement shall be pursuant to all available enforcement procedures; including legal and equitable remedies. In the event Local Sponsor should decide to utilize any legal or equitable remedy that involves the filing of a lawsuit, such use shall be subject to the mutual consent of the

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Parties prior to filing. The Local Sponsor agrees to completely and fully support ODA and work with ODA in the enforcement of this Agreement, the agricultural easement, and any agreement with a Landowner arising out of this Agreement. Failure to do so shall be a breach by the Local Sponsor of this Agreement.

5.5 Local Sponsor agrees to include ODA in any public news releases, events, brochures, fact sheets, or any other information distributed to the media ("Media Release") related to the acquisition of an agricultural easement on the Property listed in Exhibit B and acquired with ODA funds under this Agreement. Local Sponsor agrees to provide any Media Release to ODA for review and comment at least three (3) business days prior to its publication.

5.6 Local Sponsor agrees to comply with ODA guidelines and requirements regarding the disclosure of any confidential and/or potentially sensitive information about governmental and landowner issues, and such information shall not be disclosed without the prior written consent of ODA.

5.7 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture - Natural Resources Conservation Service ("USDA-NRCS") to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement ("ACEP-ALE") program, Local Sponsor is responsible for completion of all requested documents and services outlined in Cooperative Agreement with NRCS.

5.8 Any ODA funds received by Local Sponsor under this Agreement may not be utilized for reimbursement by Local Sponsor under any federal or state program, including ACEP- ALE.

ARTICLE VI: PAYMENT AND CERTIFICATION OF FUNDS

6.1 The Local Sponsor shall notify ODA when the funds for the agricultural easement are to be requested for payment.

6.2 Funds shall be paid to Local Sponsor via an escrow agreement as provided in "Exhibit H -Escrow Agreement," or substantially similar to the same, and approved by ODA with the title company as arranged by Local Sponsor. Local Sponsor shall, upon receipt of the funds from ODA, deposit and endorse over the funds to the title agent pursuant to the escrow agreement. Such escrow agreement shall specifically provide that:

- a. ODA is a third-party beneficiary of the escrow agreement;
- b. Funds shall be returned to ODA if not disbursed to Landowner within 90 calendar days of the deposit of funds to the title agent unless otherwise agreed in writing by ODA; and
- c. Any other requirements as specified by ODA.

6.3 Local Sponsor shall provide ODA notice of the scheduled closing not less than 90 calendar days prior to said Closing to ensure timely delivery of the funds.

6.4 In the event that funds are requested and placed with the title company in escrow, and that said funds are not disbursed at Closing within 90 calendar days of such deposit, the use of said funds shall be de-obligated and returned to ODA by the title agent unless the title agent has received an amendment to the escrow agreement which consents to holding the funds longer than 90 days.

6.5 In the event that any funds sent to the Local Sponsor are not endorsed or otherwise provided to the title agent pursuant to the requirements of this paragraph within 5 days of receipt, such check shall be returned to ODA unless written permission is provided by ODA to continue to hold the check.

6.6 Any periods of time longer than 90 calendar days to hold the funds shall require prior written amendment of this Agreement by the parties.

6.7 It is understood that ODA's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding for the payments due hereunder, this Agreement is terminated as of the date that the funding expires without further obligation to ODA.

6.8 ORC 126.30 is applicable to this Agreement and requires payment of interest on overdue payments. The interest charge shall be at the rate per calendar month which equals one- twelfth of the rate per annum prescribed by ORC 5703.47.

6.9 This Agreement is subject to ORC 126.07, which provides, in part, that orders under this Agreement shall not be valid and enforceable unless the Director of the Office of Budget Management first certifies that there is a balance in the appropriations not already obligated to pay existing obligations.

6.10 Under ORC 5739.02(B)(I) the State of Ohio is exempt from all state and local taxes. Neither the State of Ohio nor ODA agree to pay any taxes.

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ARTICLE VII: AGRICULTURAL EASEMENT REQUIREMENTS

7.1 The Local Sponsor shall ensure that agricultural easements acquired under this Agreement meet the following requirements:

- a. Run with the land in perpetuity;
- b. Protect agricultural use and related conservation values by limiting nonagricultural uses of the land and specify prohibited uses along with permitted uses;
- c. Provide for the administration, management, and enforcement of the agricultural easement by the Local Sponsor or its successors;
- d. Provide that if this Easement is extinguished, terminated, or condemned, in whole or in part, Landowner shall reimburse ODA for the amount equal to the proportionate share of the fair market value of the Protected Property unencumbered by this Easement as required by ORC § 901.22(A)(2)(b), and which is further specified in the terms of that certain Deed of Agricultural easement; and
- e. All other provisions as required by ODA.

7.2 The form of any deed of agricultural easement used under this Agreement shall be drafted, approved, and provided by ODA. Any revisions or modifications thereto must be approved by ODA in writing prior to the Closing.

ARTICLE VIII: TERMINATION OF LOCAL SPONSOR'S SERVICES

8.1 ODA and Local Sponsor may mutually agree, at any time prior to the completion of services by the Local Sponsor under this Agreement, suspend or terminate this Agreement with or without cause by giving written notice to the other Party.

8.2 ODA shall be entitled, by written or oral notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms, and to have all other rights against Local Sponsor by reason of the Local Sponsor's breach as provided by law. A breach shall mean, but shall not be restricted to, any one or more of the following events:

- a. Local Sponsor fails to perform the services by the date required or by such later date as may be agreed to in a written amendment to the Agreement, signed by ODA;
- b. Local Sponsor breaches any warranty or fails to perform or comply with any term of this Agreement;
- c. Local Sponsor makes any general assignment for the benefits of any creditors not previously authorized;
- d. In ODA's sole opinion, Local Sponsor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- e. Local Sponsor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency, or reorganization or relief from debtors; or
- f. Any receiver, trustee or similar official is appointed for Local Sponsor or any of Local Sponsor's property.

8.3 Upon notice of suspension or termination, Local Sponsor shall cease all work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, and take all necessary steps to limit disbursements and minimize costs. If requested by ODA, Local Sponsor will furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Agreement. Including, without limitation, results, conclusions resulting therefrom, and any other matters ODA requires.

8.4 If the Local Sponsor materially fails to comply with the terms of this Agreement, ODA reserves the right to wholly or partially recapture funds provided hereunder in accordance with applicable regulations.

8.5 ODA cannot make commitments in excess of funds authorized by law or made administratively available. If ODA cannot fulfill its obligations under this Agreement because of insufficient funds, this Agreement will automatically terminate with no further obligation by ODA. The Local Sponsor understands and agrees that no action arising out of or related to this Agreement may be brought by the Local Sponsor more than one (1) year after the cause of action accrued, regardless of the form of action.

8.6 In the event this Agreement is terminated prior to its completion, Local Sponsor shall deliver to ODA all work products and documents which have been prepared by Local Sponsor in the course of providing

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services under this Agreement. All such materials shall become and remain the property of ODA, to be used in such manner and for such purpose as ODA may choose.

8.7 Local Sponsor agrees to waive any right to, and shall make no claim for, additional compensation against ODA by reason of such suspension or termination.

ARTICLE IX: RELATIONSHIP OF PARTIES

9.1 ODA and Local Sponsor agree that Local Sponsor shall be engaged by ODA solely on an independent contractor basis and Local Sponsor shall therefore be responsible for all of its own business expenses. Including, but not limited to, computers, phone service and office space. Local Sponsor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.

9.2 While Local Sponsor shall be required to render services described hereunder for ODA during the term of this Agreement, nothing herein shall be construed to imply, by reason of Local Sponsor's engagement hereunder as an independent contractor, that ODA shall have or may exercise any right of control over Local Sponsor with regard to the manner or method of Local Sponsor's performance of services hereunder.

9.3 Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

9.4 It is fully understood and agreed that the Local Sponsor is an independent contractor and is not an agent, servant or employee of ODA or the State of Ohio.

ARTICLE X: RELATED AGREEMENTS

10.1 The work contemplated in this Agreement is to be performed by Local Sponsor, who may subcontract without ODA's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in Exhibit A, but which are required for its satisfactory completion. Local Sponsor shall not enter into other subcontracts related to the work described in this Agreement without prior written approval by ODA. All work subcontracted shall be at Local Sponsor's expense.

10.2 Local Sponsor shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind ODA to terms inconsistent with, or at variance from, this Agreement.

10.3 Local Sponsor shall furnish to ODA a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

ARTICLE XI: CONFLICTS OF INTEREST

11.1 Subject to the terms of paragraph 11.3 below, Local Sponsor shall not acquire, prior to the completion of the terms contained herein, any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of its functions and responsibilities with respect to the terms contained herein.

11.2 Subject to the terms of paragraph 11.3 below, should Local Sponsor acquire an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or involuntarily acquires any such incompatible or conflicting personal interest, Local Sponsor shall immediately disclose Local Sponsor's interest to ODA in writing. Thereafter, Local Sponsor shall not participate in any action affecting the terms of this Agreement, unless ODA determines that, in light of the personal interest disclosed, Local Sponsor's participation in any such action would not be contrary to the public interest, the statement of work, or the statutory and regulatory authority of ODA.

11.3 As an agency of the State of Ohio, ODA may not contract for services currently being performed for another state agency, so that the State actually pays more than once for the same services. Nor may ODA contract for services with another agency where the other agency's contracts could interfere with or conflict with the terms set forth in this Agreement or the regulatory authority and power of ODA. Therefore, Local Sponsor asserts that it has not entered into other agreements with another state or public agency for similar work as set forth herein that would negatively impact or interfere with the terms set forth herein or the regulatory power and authority of ODA. Nor shall Local Sponsor enter into similar agreements, without informing ODA in writing of the other agreements.

11.4 Charitable organizations shall continue to meet the requirements specified in OAC § 901-2-04 and § 901-2-07.

ARTICLE XII: COMPLIANCE WITH EXECUTIVE ORDER 2011-12K

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In accordance with Executive Order 2011-12K, Local Sponsor shall not utilize sources outside the United States in the fulfillment of this Agreement. Local Sponsor shall not subcontract any part of this Agreement without the express written consent of ODA. If a subcontract is approved by ODA, this provision applies to the subcontractor as well as to Local Sponsor. Should this provision be violated by either Local Sponsor or any subcontractor, this Agreement shall be considered void ab initio and all moneys paid by ODA to Local Sponsor or any subcontractor shall be refunded.

ARTICLE XIII: RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

The work product and its component parts provided by Local Sponsor under this Agreement are considered "work for hire" and shall become the property of the State of Ohio and neither Local Sponsor, nor employees or anyone with whom it subcontracts shall claim or assert any right, title, or other interest in, the work product or any of its component parts. The State, and any person, agency, or instrumentality providing financial assistance for the work performed under this Agreement shall have an unrestricted right to reproduce, distribute, modify, maintain, and use the work product, and Local Sponsor shall not obtain copyright, trademark, service mark, or other proprietary protection for the work product. Local Sponsor shall not include in any work product any matter for which there is proprietary protection, unless the owner and any person, agency, or instrumentality providing financial assistance to the work hereunder gives prior written approval to use such protected matter. If any of the work products is subcontracted, the Local Sponsor shall bind the subcontractor to the terms of this Article.

ARTICLE XIV: RECORD KEEPING

14.1 Any payment required under this Agreement shall be for obligations incurred in performance of this Agreement and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the costs incurred.

14.2 All records shall be kept in a manner consistent with generally accepted accounting procedures. The documentation in support of each action in the accounting records shall be filed in such a manner that it can be readily located. Records shall be maintained for three years after the completion of the Agreement.

14.3 Upon ODA's request, Local Sponsor shall provide reasonable access and a right to examine, during normal business hours, any and all books, documents, and records necessary to ensure or review compliance of this Agreement to ODA.

ARTICLE XV: CONFIDENTIALITY

15.1 Local Sponsor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of ODA.

15.2 All provisions of this Agreement relating to "confidentiality" shall remain binding upon Local Sponsor in the event of cancellation.

ARTICLE XVI: NONDISCRIMINATION OF EMPLOYMENT

Local Sponsor agrees to comply with all applicable federal, state, and local laws in the conduct of the terms herein, including but not limited to ORC 125.111. In the event that any provision of this Agreement conflicts with any law, rule, or regulation, said law, rule or regulation shall prevail.

ARTICLE XVII: ASSIGNMENT

17.1 Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by the Local Sponsor, without the prior written consent of ODA.

17.2 This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

ARTICLE XVIII: OHIO ETHICS LAW REQUIREMENTS

18.1 Local Sponsor certifies that he/she has not given nor promised to give anything of value to any public official or employee of ODA or any other board, commission, or agency of the State of Ohio. Local Sponsor also certifies that he/she is in compliance with and will remain in compliance with all of the provisions of Ohio Ethics Law as provided by ORC 102.03 and 102.04.

18.2 Local Sponsor affirms that, as applicable to Local Sponsor, no party listed in ORC 3517.13(1) and (J) or spouse of such party has made, as an individual, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees within the two previous calendar years.

18.3 Local Sponsor certifies that it does not have on its staff, payroll, or otherwise employed for monetary compensation or not, any employee who, within the past twelve months, was a public official or ODA

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employee or any other board, commission or agency of the State of Ohio who had the ability to make decisions regarding approval, disapproval, recommendation, rendering advice, investigation or otherwise exercised substantial administrative control over matters concerning Local Sponsor at the time of his/her state employment.

ARTICLE XIX: LIABILITY

19.1 Each Party agrees to be responsible for their own liability resulting from the negligence or intentional acts or omissions of its trustees, officers, employees, and agents, including but not limited to patent or copyright infringement, while they are acting within the scope of this Agreement.

19.2 Each party to this Agreement shall be responsible for any breach of this Agreement, or negligent acts or omissions arising out of or in connection with this Agreement, or any other agreement entered into as a result of this Agreement, as determined by a court of competent jurisdiction, or as the parties may otherwise mutually agree. Nothing in this Agreement shall impute or transfer any such responsibility from one party to the other party.

19.3 Each party is responsible for paying its own costs and attorney's fees that arise from defending any claims brought under the terms of this Agreement.

19.4 In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

19.5 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture - Natural Resources Conservation Service ("USDA-NRCS") to receive matching funds under its Agricultural Conservation Easement Program - Agricultural Land Easement ("ACEP-ALE") program, and to which ODA shall be obligated to act as party to or secondary beneficiary to that certain Cooperative Agreement and associated rights and responsibilities, Local Sponsor shall be responsible for any and all obligations which arise under or which are related to that Cooperative Agreement.

ARTICLE XX: CONDITIONS AND WARRANTIES

20.1 Local Sponsor warrants that it is not listed with the Secretary of State for unfair labor practices, pursuant to ORC 121.23.

20.2 Local Sponsor affirmatively represents and warrants to the State that it is not subject to a finding for recovery under ORC 9.24, or that it has taken the appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section.

20.3 Local Sponsor warrants that he/she has no outstanding final judgments against it by the State, including tax liabilities, and agrees that any payments provided to the Local Sponsor by the State pursuant to this Agreement may be applied against such liabilities currently owing or incurred in the future.

20.4 Local Sponsor agrees that if this representation and warranty is deemed to be false, the Agreement shall be void ab initio, and any funds paid by State hereunder shall be immediately repaid to State

20.5 Local Sponsor affirmatively represents that it does not and will not boycott any jurisdiction with whom the State can enjoy open trade during the contract period, in accordance with ORC 9.76.

ARTICLE XXI: ENTIRE AGREEMENT AND WAIVER

21.1 This written Agreement constitutes the entire Agreement between Local Sponsor and ODA, and there are no other agreements between them, either oral or written, which relate to the work to be performed under this Agreement.

21.2 This Agreement supersedes any and all previous agreements, whether written or oral, between the Parties. No change to any provision of this Agreement shall be effective unless stated in writing and signed by both parties to this Agreement.

21.3 No term or provision of this Agreement shall be deemed waived and no breach excused unless the waiver or consent is in writing and signed by both parties to this Agreement. ODA may at its discretion, in event of a breach, notify Local Sponsor of the breach and allow the time specified by ODA to correct the breach.

21.4 A waiver by any Party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

ARTICLE XXII: NOTICES

22.1 All notices, consents, requests, and other communications hereunder shall be in writing and shall be deemed to be given upon receipt thereof and shall be sent to the addresses set forth hereunder or to such other

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address as the other party hereto may designate by written notice transmitted in accordance with this provision. Electronic or facsimile notices are permitted when reasonable and upon approval by ODA.

1) In case of ODA to:
Jody Bowen
Office of Farmland Preservation Ohio Department of Agriculture
8995 East Main Street
Reynoldsburg, Ohio 43068-3342

2) In case of the Local Sponsor to:
Scott Stephens
Delaware County Commissioners c/o
Delaware Soil and Water and Conservation District
557 Sunbury Road
Suite A
Delaware, OH 43015-8656

22.2 Any and all notices and other documents and communications required to be given pursuant to this Agreement shall be deemed duly given: (a) upon actual delivery, if delivery is by hand or courier service; (b) upon receipt by the transmitting party of confirmation or answer back if delivery is by facsimile or electronic means; or (c) upon the third day following delivery into the U.S. mail if delivery is by regular U.S. mail. Each such notice shall be sent to the respective party at the address indicated first above or at any other address as the respective party may designate by notice delivered pursuant hereto.

ARTICLE XXIII: CONSTRUCTION, APPLICABLE LAW, AND HEADINGS

23.1 Under ORC Chapter 2743 the State of Ohio has waived its immunity from liability and consented to be sued and have its liability determined in its Court of Claims in accordance with the same rules of law applicable to suits between private parties, except to the extent the determination of the State of Ohio's liability is subject to limitations set forth in ORC Chapter 2743.

23.2 In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

23.3 This Agreement and any claims arising in any way out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the law of Ohio shall be deemed void and of no effect.

23.4 All actions regarding this Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio and both parties irrevocably waive any objections to convenience of forum. In the event that this Agreement should become subject to the jurisdiction of the Court of Claims, the parties agree that such jurisdiction shall be binding and take precedence over any other forum selection clauses of this Agreement.

23.5 Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Agreement.

23.6 The headings used in this Agreement are for convenience only and shall not be used in interpreting this Agreement.

ARTICLE XXIV: DEBARMENT

Local Sponsor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or ORC 25.25. If this representation and warranty is found to be false, this Agreement is void ab initio and Local Sponsor shall immediately repay to ODA any funds paid under this Agreement.

ARTICLE XXV: ANTITRUST ASSIGNMENT

Local Sponsor agrees to assign to ODA all State and Federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

ARTICLE XXVI: EXCUSE OF PERFORMANCE

26.1 The performance of this Agreement, except for the payments of money for services already rendered, may be suspended by either Party for cause or causes beyond the reasonable control of such Party.

26.2 Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; unforeseeable or unpreventable lack of adequate fuel, power, raw materials, labor or transportation facilities; unforeseeable changes in governmental laws, regulations, requirements, orders or actions; unforeseeable or preventable breakage or failure of machinery or apparatus; national defense

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requirements; injunctions or restraining orders; unforeseeable or unpreventable labor trouble, strike, lockout or injunction, provided that neither Party shall be required to settle or prevent a labor dispute against its own best judgment.

ARTICLE XXVII: COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument. A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable.

ARTICLE XXVIII: DRUG FREE WORKPLACE

Local Sponsor agrees to comply with all applicable state and federal laws regarding drug-free and smoke-free workplace requirements and shall make good faith effort to ensure that all its employees will not purchase, transfer, use or possess illegal drugs or abuse prescription drugs in any way and will not violate Ohio Liquor Law or any other state or federal law regarding the sale, transfer, or consumption of alcoholic beverages

ARTICLE XXVIII: EXECUTION

This Agreement is not binding upon ODA unless executed in full.

(Copy of exhibits available in the Commissioners’ Office and Soil and Water Conservation Office until no longer of Administrative value).

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

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RESOLUTION NO. 19-306

IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE DELAWARE COUNTY BOARD OF DEVELOPMENTAL DISABILITIES:

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

Supplemental Appropriation

49552506-5410 DODD Capital Improvements/Building and Improvements 37,493.33

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

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RESOLUTION NO. 19-307

IN THE MATTER OF APPROVING ESTIMATE, BID SPECIFICATIONS, AND SETTING BID OPENING DATE AND TIME FOR THE PROJECT KNOWN AS THE DELAWARE COUNTY HISTORIC COURTHOUSE PROJECT:

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

WHEREAS, the Director of Facilities recommends approval of the estimate, bid specifications, and bid opening date and time for the project known as the Delaware County Historic Courthouse Project:

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the estimate, bid specifications, and bid opening date and time for the project known as the Delaware County Historic Courthouse Project:

Delaware County Board of Commissioners

**PUBLIC NOTICE
INVITATION TO BID**

Bids shall be submitted electronically through the www.bidexpress.com web service until 1:00 PM on Wednesday, May 1, 2019, at which time they will be publicly received and read aloud for the following project:

DELAWARE COUNTY HISTORIC COURTHOUSE
91 N. Sandusky St
Delaware, Ohio 43015

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All proposals shall be submitted electronically through the web service www.bidexpress.com. A Bid Guaranty must be submitted with each bid, pursuant to the requirements of O.R.C. 153.54.

To access this Project through the electronic bidding service, you must first register at www.bidexpress.com by clicking on the "REGISTER FOR FREE" button and following the instructions. In order to bid, you must create and enable a digital ID within the service. This process requires the submission of notarized paperwork and may take up to five business days to complete. There are no fees to register, create and enable a digital ID, or to download bid documents. There is a small expense on a monthly or per bid basis to submit a bid. The electronic bidding service offers customer support that may be reached at 888.352.2439 or via email at support@bidexpress.com.

Bids are to be submitted in accordance with the specifications and drawings prepared by: Schooley Caldwell, Columbus, Ohio. Bids will be received for the following package:

General Contractor, estimated at \$8,153,552

A pre-bid meeting will be held on Wednesday April 17, 2019 at 2:00 PM at the Delaware County Commissioners' Office, 101 N. Sandusky St., Delaware, OH 43015.

Bid award shall be to the lowest and best bidder as determined by Delaware County. Delaware County reserves the right to reject any and all bids, in whole or in part, to waive any defect in any or all bids. Each bid shall contain the full name and address of the bidder and all interested parties. No bid shall be withdrawn for a period of sixty (60) days after being publicly opened and read.

Notice to Bidders are posted on the Internet and may be viewed on Delaware County's web site at www.co.delaware.oh.us under the heading "Public Notices and Bids".

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

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RESOLUTION NO. 19-308

IN THE MATTER OF AWARDING BIDS AND APPROVING AGRICULTURE CASH LEASES BETWEEN THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY AND JUSTIN VIERS, FOR FARMLAND ON LEWIS CENTER ROAD, AND SAM BAUDER & SCOTT BAUDER, FOR FARMLAND ON SAWMILL ROAD:

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

**ITB 19-02 Engineers Farmland Cash Lease
Bid Opening of March 27, 2019**

WHEREAS, as the result of the above referenced bid opening, the Director of Facilities recommends that bid awards be made to Justin Viers for farmland on Lewis Center Road and Sam Bauder & Scott Bauder for farmland on Sawmill Road, the high bidders for the leases; and

WHEREAS, the Director of Facilities recommends approval of the Cash Leases between the Delaware County Board of Commissioners and Justin Viers for farmland on Lewis Center Road and Sam Bauder & Scott Bauder for farmland on Sawmill Road,;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners that:

Section 1: the Board hereby awards the bid to and approves the Cash Lease with Justin Viers for 11 acres described as parcel #1 (#31821316006000) located off of Lewis Center Road.

Section 2: the Board hereby awards the bid to and approves the Cash Lease with Sam Bauder & Scott Bauder for 20 acres described as parcel #2 (#41934001029000) located off of Sawmill Road.

Lewis Center farmland

CASH LEASE

SECTION I. DATE, PARTIES TO LEASE, AND DESCRIPTION OF PROPERTY

1. This lease is made this 8th day of April, 2019, by and between the Board of Commissioners for Delaware County, Ohio, landlord, and Justin Viers, 1210 Church St., Lewis Center, OH 43035, tenant.
2. The landlord, in consideration of the hereinafter described agreements made by the tenant, does hereby lease to the tenant to occupy and use for agriculture purposes only the following described real estate situated in the County of Delaware, State of Ohio: 11 acres described as parcel #1 (#31821316006000) located off of Lewis Center Road.

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SECTION II. LENGTH OF LEASE

Said tenant to have and to hold the said property, subject to the conditions and limitations hereinafter mentioned, for the 2019 crop year beginning on the 1st day of April, 2019, at 12:00 p.m. (noon) and ending on December 31, 2019, or ten days after the crops are removed, whichever comes first.

Said lease is thereafter renewable for four (4) additional one (1) crop years. To renew, the tenant must provide the landlord a written notice of intent to renew on or before the first day of December 2019 (for the 2020 crop year). Any renewal period pursued by the tenant will be subject to the same terms and conditions of the original lease period.

The landlord reserves the right not to renew the lease and must do so in writing to the tenant by March 1st following the original term and any renewal period.

SECTION III. PAYMENT OF RENT

For the occupancy and use of the real estate as herein described the tenant agrees to pay the landlord, a rent of \$1,683.00, being computed at \$153.00 per acre.

One half of the annual rent shall be due and payable at the Delaware County Commissioners Office, 101 N. Sandusky Street, Delaware, Ohio 43015 on or before April 1, 2019; the remaining one-half of the annual rent is due and payable on or before November 1, 2019 for the crop year. Rent any renewal period will be due in the same manner for the year of the lease is renewed.

Failure to pay rent on time will automatically result in non-renewal of lease.

SECTION IV. LANDLORD CONTRIBUTION

1. The landlord will furnish the above described real estate.

SECTION V. TENANT'S CONTRIBUTION AND CARE OF PROPERTY

The tenant agrees to farm the land in a husband-like manner and to standards, methods, and/or practices recommended by the Delaware County Soil and Water Conservations District and the USDA Natural Resource Conservation Service.

SECTION VI. SYSTEM OF FARMING AND SOIL MAINTENANCE

Lease will provide renter exercise such recommended agriculture practices as they relate to non-plowing of identified surface drainage courses, leave straw on fields planted to wheat or oats, fertilization of crops and use of only acceptable herbicides and pesticides which have no residual carry over. Straw cut during harvest may be removed from fields.

The tenant shall not use the property that is subject of this lease for the pasturing of livestock. This lease does not include the use of any building or utilities on the property.

SECTION VII. RIGHT OF ENTRY

The landlord reserves the right to enter upon said land to inspect, to make improvements thereon, and for any and all lawful purposes arising from the ownership of the farm so long as it does not interfere with the rights of the tenant as provided in this lease.

SECTION VIII. HEIRS AND SUCCESSORS

1. This lease shall be binding upon the heirs, executors, administrators, and successors of both landlord and tenant.
2. However, if the lease is renewed for more than the crop year, the following applies:
 - a. If the land is sold or transferred during the term of this lease, the sale or transaction is subject to terms of this lease.
 - b. If the tenant dies during the terms of this lease, the lease shall be terminated at the end of the lease year in which the death occurs.

SECTION IX. YIELDING POSSESSION AT END OF LEASE

The tenant agrees that at the expiration of this lease he will yield possession of the property to the landlord without further notice and that it will be in as good order and condition as when the same was entered by the tenant.

SECTION X. SUBLEASING

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The tenant will not re-lease or sublet said property or any part thereof without the written consent of the landlord.

SECTION XI. TERMINATION OF LEASE/LIQUIDATED DAMAGES

The landlord may, at its sole option, terminate this lease upon providing thirty (30) days written notice of its intent to do so. If the landlord terminates this lease for any reason before the planting of any crops, the landlord shall reimburse the tenant liquidated damages for all reasonable expenses, excluding lost profits but including any rent payments that already have been made, for that crop season. If the landlord terminates this lease after the planting of crops, the landlord shall reimburse the tenant liquidated damages in the estimated amount of the value the crop planted on the farmland. Estimated yield rates and rates for standard farming practices will be obtained from the local USDA Office and/or OSU Extension Office. The liquidated damages described in this section will be the only remedy available to the tenant under this agreement. The tenant hereby releases all other claims, rights and legal and equitable remedies against the landlord. The tenant further indemnifies and holds harmless the landlord for any claim made by any party against the landlord relating to this agreement or the tenant's use of the property.

SECTION XII. ADDITIONAL FEATURES

The tenant may enter the premises prior to April 1st for spring field work by contacting the Delaware County Facilities Management office. The landlord shall not reimburse the tenant for any field work should the tenant fail to pay the rent by April 1st.

SECTION XIII. MISCELLANEOUS TERMS

1. **Indemnity:** The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all losses, claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which they may incur as a result of bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, caused in whole or part by the negligent act or omission of the Tenant, any person directly or indirectly employed by Tenant, or any person for whose acts Tenant may be liable.

2. **Insurance:** The Tenant shall carry and maintain throughout the life of the Lease such bodily injury and property damage liability insurance as will protect it and the Landlord, its respective board members, officers, employees, agents, representatives, servants, and volunteers against any and all claims for personal injury, including death, or property damage, which may arise under this Lease or from use of vehicles in connection therewith, and shall include coverage for indemnification as described above.

The Tenant shall present to the Landlord current certificates of insurance, and shall maintain such insurance during the term of this Lease. Said insurance shall, at a minimum, include the insurance specified below and the amount of coverage on said policies of insurance shall be at least that which is specified below:

 - a. General Liability insurance for a minimum of one million dollars (\$1,000,000.00) per occurrence;
 - b. Auto Liability Insurance covering all owned, non-owned and hired vehicles used upon or about the leased premises, with limits of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage.

3. **Severability:** If any provision of this Lease shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this lease, and such other provision shall continue in full force and effect.

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

In witness whereof, the parties have signed this lease on the date named in Section I.

The Sawmill Rd farmland

CASH LEASE

SECTION I. DATE, PARTIES TO LEASE, AND DESCRIPTION OF PROPERTY

1. This lease is made this 8th day of April , 2019, by and between the Board of Commissioners for Delaware County, Ohio, landlord, and Sam Bauder & Scott Bauder, 2855 Shoemaker Rd., Delaware,

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OH 43015, tenant.

2. The landlord, in consideration of the hereinafter described agreements made by the tenant, does hereby lease to the tenant to occupy and use for agriculture purposes only the following described real estate situated in the County of Delaware, State of Ohio: 20 acres described as parcel #2 (#41934001029000) located off of Sawmill Road.

SECTION II. LENGTH OF LEASE

Said tenant to have and to hold the said property, subject to the conditions and limitations hereinafter mentioned, for the 2019 crop year beginning on the 1st day of April, 2019, at 12:00 p.m. (noon) and ending on December 31, 2019, or ten days after the crops are removed, whichever comes first.

Said lease is thereafter renewable for four (4) additional one (1) crop years. To renew, the tenant must provide the landlord a written notice of intent to renew on or before the first day of December 2019 (for the 2020 crop year). Any renewal period pursued by the tenant will be subject to the same terms and conditions of the original lease period.

The landlord reserves the right not to renew the lease and must do so in writing to the tenant by March 1st following the original term and any renewal period.

SECTION III. PAYMENT OF RENT

For the occupancy and use of the real estate as herein described the tenant agrees to pay the landlord, a rent of \$3,117.00, being computed at \$155.85 per acre.

One half of the annual rent shall be due and payable at the Delaware County Commissioners Office, 101 N. Sandusky Street, Delaware, Ohio 43015 on or before April 1, 2019; the remaining one-half of the annual rent is due and payable on or before November 1, 2019 for the crop year. Rent any renewal period will be due in the same manner for the year of the lease is renewed.

Failure to pay rent on time will automatically result in non-renewal of lease.

SECTION IV. LANDLORD CONTRIBUTION

1. The landlord will furnish the above described real estate.

SECTION V. TENANT'S CONTRIBUTION AND CARE OF PROPERTY

The tenant agrees to farm the land in a husband-like manner and to standards, methods, and/or practices recommended by the Delaware County Soil and Water Conservations District and the USDA Natural Resource Conservation Service.

SECTION VI. SYSTEM OF FARMING AND SOIL MAINTENANCE

Lease will provide renter exercise such recommended agriculture practices as they relate to non-plowing of identified surface drainage courses, leave straw on fields planted to wheat or oats, fertilization of crops and use of only acceptable herbicides and pesticides which have no residual carry over. Straw cut during harvest may be removed from fields.

The tenant shall not use the property that is subject of this lease for the pasturing of livestock. This lease does not include the use of any building or utilities on the property.

SECTION VII. RIGHT OF ENTRY

The landlord reserves the right to enter upon said land to inspect, to make improvements thereon, and for any and all lawful purposes arising from the ownership of the farm so long as it does not interfere with the rights of the tenant as provided in this lease.

SECTION VIII. HEIRS AND SUCCESSORS

1. This lease shall be binding upon the heirs, executors, administrators, and successors of both landlord and tenant.
2. However, if the lease is renewed for more than the crop year, the following applies:
 - c. If the land is sold or transferred during the term of this lease, the sale or transaction is subject to terms of this lease.
 - d. If the tenant dies during the terms of this lease, the lease shall be terminated at the end of the lease year in which the death occurs.

SECTION IX. YIELDING POSSESSION AT END OF LEASE

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The tenant agrees that at the expiration of this lease he will yield possession of the property to the landlord without further notice and that it will be in as good order and condition as when the same was entered by the tenant.

SECTION X. SUBLEASING

The tenant will not re-lease or sublet said property or any part thereof without the written consent of the landlord.

SECTION XI. TERMINATION OF LEASE/LIQUIDATED DAMAGES

The landlord may, at its sole option, terminate this lease upon providing thirty (30) days written notice of its intent to do so. If the landlord terminates this lease for any reason before the planting of any crops, the landlord shall reimburse the tenant liquidated damages for all reasonable expenses, excluding lost profits but including any rent payments that already have been made, for that crop season. If the landlord terminates this lease after the planting of crops, the landlord shall reimburse the tenant liquidated damages in the estimated amount of the value the crop planted on the farmland. Estimated yield rates and rates for standard farming practices will be obtained from the local USDA Office and/or OSU Extension Office. The liquidated damages described in this section will be the only remedy available to the tenant under this agreement. The tenant hereby releases all other claims, rights and legal and equitable remedies against the landlord. The tenant further indemnifies and holds harmless the landlord for any claim made by any party against the landlord relating to this agreement or the tenant's use of the property.

SECTION XII. ADDITIONAL FEATURES

The tenant may enter the premises prior to April 1st for spring field work by contacting the Delaware County Facilities Management office. The landlord shall not reimburse the tenant for any field work should the tenant fail to pay the rent by April 1st.

SECTION XIII. MISCELLANEOUS TERMS

1. Indemnity: The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all losses, claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which they may incur as a result of bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, caused in whole or part by the negligent act or omission of the Tenant, any person directly or indirectly employed by Tenant, or any person for whose acts Tenant may be liable.
2. Insurance: The Tenant shall carry and maintain throughout the life of the Lease such bodily injury and property damage liability insurance as will protect it and the Landlord, its respective board members, officers, employees, agents, representatives, servants, and volunteers against any and all claims for personal injury, including death, or property damage, which may arise under this Lease or from use of vehicles in connection therewith, and shall include coverage for indemnification as described above.

The Tenant shall present to the Landlord current certificates of insurance, and shall maintain such insurance during the term of this Lease. Said insurance shall, at a minimum, include the insurance specified below and the amount of coverage on said policies of insurance shall be at least that which is specified below:

- c. General Liability insurance for a minimum of one million dollars (\$1,000,000.00) per occurrence;
- d. Auto Liability Insurance covering all owned, non-owned and hired vehicles used upon or about the leased premises, with limits of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage.
3. Severability: If any provision of this Lease shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this lease, and such other provision shall continue in full force and effect.
4. Governing Law: This Lease shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Lease shall be filed in and heard before the courts of Delaware County, Ohio.

In witness whereof, the parties have signed this lease on the date named in Section I.

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

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15**RESOLUTION NO. 19-309**

**IN THE MATTER OF APPROVING AMENDMENT NO. 1 TO THE SANITARY SEWER
SUBDIVIDER'S AGREEMENT FOR SHELLY'S RETREAT AT CARPENTER'S MILL SECTION 1
PHASE A:**

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

WHEREAS, the Sanitary Engineer recommends approval of Amendment No. 1 to the Sanitary Subdivider's Agreement for Shelly's Retreat at Carpenter's Mill Section 1 Phase A;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the following Amendment No. 1 to the Sanitary Sewer Subdivider's Agreement for Shelly's Retreat at Carpenter's Mill Section 1 Phase A:

**AMENDMENT NO. 1 TO
SANITARY SEWER IMPROVEMENTS
PLAN APPROVAL AND SUBDIVIDER'S AGREEMENT
SHELLY'S RETREAT AT CARPENTER'S MILL SECTION 1 PHASE A**

This Amendment No. 1 to the Sanitary Sewer Improvements Plan Approval and Subdivider's Agreement for Shelly's Retreat at Carpenter's Mill Section 1 Phase A, which was entered into on April 9, 2018, is made and entered into this 8th day of April, 2019, by and between Pulte Homes of Ohio LLC (the "Subdivider"), and the Delaware County Board of Commissioners (the "County"). The Subdivider and the County mutually agree to amend the Agreement as follows:

AMENDMENT

A new SECTION VIII-A shall be inserted as follows:

SECTION VIII-A: MODEL HOME LOT

Notwithstanding the Improvements not yet being accepted into public service, the County shall permit the Subdivider to connect the model home lot within Shelly's Retreat at Carpenter's Mill Section 1 Phase A, consisting of lot number 3804 on the approved engineering drawings for Shelly's Retreat at Carpenter's Mill Section 1 Phase A & B, dated February 27, 2018, and approved by the County on April 2, 2018, subject to the following conditions:

1. The Subdivider shall cause the homes' sewage line to be plugged to ensure that wastewater is securely contained and does not unlawfully discharge.
2. The plug to be used shall be Rectorseal HubSett Test Coupling. Any alternate plugs may not be used without the express, written approval of the Delaware County Sanitary Engineer.
3. The plugs shall only be permitted in the model home identified herein and may not be used in other homes within Shelly's Retreat at Carpenter's Mill Section 1.
4. The Subdivider shall also install sewer plugs in the main line at manholes as directed by the Sanitary Engineer.
5. The Subdivider acknowledges that the use of a plug as approved herein shall not establish a precedent for future use and that any future use shall require written preapproval by the Sanitary Engineer.
6. The acceptance of Improvements shall remain as set forth in the original Agreement.
7. The installation of the plug and connection of the home approved in SECTION VIII-A are subject to inspection by the County. The full tap fee and inspection fee shall be paid prior to scheduling inspection. The County will not re-inspect the plug or connection after passing initial inspection, and the Subdivider shall be liable for any failures thereof and resulting damage until the Improvements have been accepted by the County and the maintenance period has expired.
8. Prior to final acceptance of the Improvements, the Subdivider shall cause the onsite sewers to be inspected by camera and submit the inspection video and accompanying reports to the County for review as part of the final inspection of the Improvements.
9. The Subdivider shall, at its sole expense, remove any discharge or debris and shall clean the sewers prior to final acceptance by the County.
10. Only upon final acceptance of downstream improvements shall the County permit the plug installed as specified herein to be removed.
11. In addition to the indemnification provided in the original Agreement, the Subdivider shall specifically indemnify the County against and hold the County harmless from any damages, claims, judgments, costs, or liabilities of any kind arising from the use of the plug as approved herein.

REMAINING PROVISIONS

All remaining provisions of the Agreement shall continue in full force and effect unless specifically amended herein.

SECTION VIII: SIGNATURES

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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 Aye Mr. Benton Aye Mrs. Lewis Aye

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RESOLUTION NO. 19-310

IN THE MATTER OF APPROVING A CONTRACT BETWEEN THE VILLAGE OF SHAWNEE HILLS, THE DELAWARE COUNTY SHERIFF’S OFFICE, AND THE DELAWARE COUNTY BOARD OF COMMISSIONERS REGARDING INMATE HOUSING:

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

WHEREAS, the Sheriff and Sheriff’s Office Staff recommend approval of the following Contract between the Village of Shawnee Hills, the Delaware County Sheriff’s Office, and the Delaware County Board of Commissioners Regarding Inmate Housing;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following Contract between the Village of Shawnee Hills, the Delaware County Sheriff’s Office, and the Delaware County Board of Commissioners Regarding Inmate Housing:

CONTRACT FOR PRISONER HOUSING

Section 1 - Parties to the Agreement

This Agreement is made and entered into this 11th day of March , 2019 by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 ("Delaware County") and the Village of Shawnee Hills, Ohio, 9484 Dublin Road, Shawnee Hills, OH 43065 ("Shawnee Hills") (hereinafter collectively referred to as the “Parties”) pursuant to sections 9.482, 307.15, et seq., and 1905.35, et seq. of the Revised Code.

Section 2 - Contract Administrator

Delaware County hereby designates the Delaware County Administrator of Corrections and Court Services, subject to the direction of the Delaware County Sheriff, as Administrator and agent of Delaware County for purposes of this Agreement, including commencement and suspension thereof.

Section 3 - Scope

Shawnee Hill desires to have the Delaware County Jail house its inmates charged under its municipal ordinances. Shawnee Hills is duly authorized to exercise, perform, render, or contract for jail services and is, or from time to time may be, without adequate and sufficient facilities for incarceration and care of its adult inmates. Delaware County and Shawnee Hills desire that Delaware County provide jail services to Shawnee Hills and have Shawnee Hills's prisoners incarcerated and cared for in the Delaware County Jail for such periods as may be directed by the Courts and/or Shawnee Hills.

Delaware County will receive and care for, at the Delaware County Jail, all prisoners referred by Shawnee Hills for such length of time as said prisoners respectively may be committed by the sentencing court of competent jurisdiction, subject to the provisions of this Agreement. Delaware County's acceptance of prisoners is also subject to available space within the Delaware County Jail. The Parties agree that there is no minimum number of inmates required to be housed under this agreement.

The care, control, custody and supervision of prisoners accepted by Delaware County shall be exercised in conformity with the minimum standards for full service jails in Ohio as adopted by the rules and regulations of the Ohio Department of Rehabilitation and Corrections and the rules and regulations and policies of operation of the Delaware County Jail as adopted by the Sheriff of Delaware County, Ohio.

Upon delivery to the Delaware County Jail by Shawnee Hills of its prisoners, along with proper commitment papers, Delaware County shall accept and receive said prisoners for incarceration therein, provided however, that this Agreement imposes no obligation upon Delaware County to accept any or all such prisoners tendered by Shawnee Hills for incarceration in the Delaware County Jail when, at the discretion of the Sheriff of Delaware County, a prisoner is refused in accordance with this Agreement. It shall be the obligation of Shawnee Hills to telephone or otherwise contact the Sheriff of Delaware County, Ohio, or designee, before delivery of Shawnee Hills' prisoners to ascertain that the same will be accepted for incarceration within the Delaware County Jail. Shawnee Hills will also notify Delaware County of an estimated time of arrival.

Shawnee Hills agrees to abide by any and all rules, regulations, laws and standards of conduct that now are or any time in the future may be in force at the Delaware County Jail as prescribed by the Delaware County Sheriff, Delaware County Judges, the State of Ohio, or any other political subdivision having authority or

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empowered to make such rules, regulations, laws or standards, which shall all be open for inspection at the Delaware County Jail.

Shawnee Hills agrees to take reasonable steps to properly identify the inmate and the inmate's nationality. Shawnee Hills agrees to contact and coordinate with other entities that have issued warrants, summons, detainers, subpoenas, and similar legal process for the inmate. Shawnee Hills agrees to assume sole responsibility for adhering to all relevant law and procedure regarding a foreign national's rights, if any, under a treaty or federal law.

Section 4 – Transportation Expenses

Persons imprisoned by Shawnee Hills or arrested and brought to the Delaware County Jail for incarceration shall be escorted and transported by Shawnee Hills, at Shawnee Hills' sole expense, to the Delaware County Jail. In no event shall Delaware County transport Shawnee Hills's prisoners outside Delaware County jurisdiction. When the destination of Shawnee Hills's prisoner transportation is outside Delaware County, Shawnee Hills shall arrange, at Shawnee Hills's sole expense, transportation of said prisoner to and from the Delaware County Jail.

Section 5 - Confinement Expenses

Shawnee Hills shall be invoiced monthly by the Delaware County Sheriff, for each person confined in the Delaware County Jail pursuant to this Agreement, the sum of \$65.00 per prisoner day during such confinement ("Confinement Expense"). "Prisoner day" is any one calendar day, or any part thereof, separately computed for each of Shawnee Hills prisoner, during which said prisoner is actually subject to the care, control, custody, and supervision of the Sheriff of Delaware County, Ohio, or any of his agents or employees. The Parties agree this amount is Delaware County's actual costs.

The Parties agree that Delaware County shall be able to recover the costs, expenses, settlement monies, and monetary judgments paid by Delaware County to an inmate or inmate's estate arising out of the inmate's confinement as expenses under R.C. 341.19 or damages under R.C. 341.18. If Delaware County recovers any such money under R.C. 341.19 for a Shawnee Hills prisoner, whom Shawnee Hills already paid the Confinement Expense, Delaware County shall refund the Confinement Expense within thirty (30) days.

Delaware County Sheriff shall prepare and submit to Shawnee Hills, monthly, a statement specifying all obligations for payment required of Shawnee Hills. Shawnee Hills shall pay unto Delaware County any amount due and unpaid as specified in such statements within thirty (30) days of the statement. Delaware County shall refund to Shawnee Hills any amount overpaid as specified in such statements within thirty (30) days of the statement.

Section 6 - Care Expenses

Shawnee Hills shall pay all sums expended for or incurred in the name of Delaware County for any and all medical, dental or hospital treatments (inpatient or outpatient) necessary for the care of Shawnee Hills's prisoners while such prisoners are in the custody and control of Delaware County, including, but not limited to, examinations, treatments, prescription medication, x-rays, laboratory work, physical therapy, testing, and referrals to outside physicians, Mental Health Professionals or specialists.

In the event hospitalization is deemed necessary, Delaware County shall notify Shawnee Hills when the fact is known or as soon thereafter as possible. If the prisoner requires hospitalization under guard, the prisoner will be booked out of jail into the custody of Shawnee Hills, and Shawnee Hills shall provide its own security.

In case of the death of a prisoner, Delaware County shall not be liable for any costs or expenses related to the inmate's death. Shawnee Hills shall pay for all expenses and costs relating, but not limited to, transportation of the corpse, autopsy, and burial expenses.

Section 7 - Habeas Corpus Expenses

Notwithstanding R.C. 341.17, the Parties agree that the Village Solicitor of Shawnee Hills, or such other counsel Shawnee Hills may retain, shall provide legal counsel in habeas case filed in state court. Shawnee Hills shall give notice to Delaware County within 14 days of service of the complaint of its intention to defend a habeas action. Failure of Shawnee Hills to give such notice, to file an answer, or otherwise defend the matter shall entitle Delaware County to act instead of Shawnee Hills. All reasonable and necessary expenses incurred by Delaware County in any habeas corpus proceedings for any of Shawnee Hills' prisoners shall be paid by Shawnee Hills unless otherwise paid by said prisoner, or by someone on the prisoner's behalf. The Parties agree that the Delaware County Prosecuting Attorney's hourly rate is \$100.00.

Section 8 - Right to Refuse Prisoners

Delaware County reserves the right to reject any and all persons who, because of medical or mental health problems, shows it is unsafe to incarcerate such persons. The Delaware County Sheriff shall not commit prisoners suffering from any communicable, contagious, infectious or venereal disease. Should any prisoner

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committed by Shawnee Hills develop or contract any such disease while detained at Delaware County Jail, or having received any prisoner so affected, without knowledge thereof upon discovery of such condition in any prisoner thereafter Delaware County may refuse to keep such prisoners. Upon such refusal to keep said prisoner, Delaware County shall immediately notify Shawnee Hills or Shawnee Hills Police Department and advise it of the same. Upon notification provided herein, Shawnee Hills shall, at its own expense, promptly remove or cause to be removed such prisoner from the Delaware County Jail.

Delaware County shall not receive or allow to remain any pregnant female prisoners in the Delaware County Jail. Delaware County further reserves the right to reject or return any and all prisoners committed to the Delaware Jail, when, in the sole discretion of Delaware County, the Delaware County Sheriff, or his employees, agents, or assigns determine that the conditions of said Delaware County Jail and its prisoners are subject to hazards and, therefore, injurious to the well-being of any and/or all inmates confined. The Parties agree that juvenile inmates are outside the scope of this agreement.

Section 9 - Term of Agreement

This Agreement shall commence on the date recited first herein and continue in force until March 31, 2020, whereupon this Agreement shall terminate unless the Parties agree upon an extension of this Agreement or a new agreement. Either Party may suspend or terminate this Agreement at any time for convenience by providing ninety (90) days written notice to the other Party. In the case of termination, Delaware County shall submit a final invoice statement within sixty (60) days of the effective date of termination. Termination of this Agreement shall not affect the Agreement of the Parties as to prisoners incarcerated at the time notice of termination is given to the other Party.

Section 10 - Miscellaneous Terms & Conditions

10.1 Entire Agreement: This Agreement shall constitute the entire understanding and agreement between Delaware County and Shawnee Hills, 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.

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

10.3 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. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

10.4 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.

10.5 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 to be effective and to be complied with.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

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

17
RESOLUTION NO. 19-311

IN THE MATTER OF APPROVING A CONTRACT AND ADDENDUM BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, THE DELAWARE COUNTY SHERIFF'S OFFICE, AND STANLEY CONVERGENT SOLUTIONS, INC FOR CCTV UPGRADES AND REPAIRS:

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

WHEREAS, the Sheriff and Sheriff's Office Staff recommend approval of the following Contract and Addendum between the Delaware County Board of Commissioners, the Delaware County Sheriff's Office, and

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Stanley Convergent Solutions, Inc for CCTV Upgrades and Repairs;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the following Contract and Addendum between the Delaware County Board of Commissioners, the Delaware County Sheriff's Office, and Stanley Convergent Solutions, Inc for CCTV Upgrades and Repairs:

Contract with Stanley Convergent Solutions, Inc. for CCTV Upgrades and Repairs

This Contract for Services ("Contract") is entered into this 21st day of March, 2019 by and between Delaware County and the Delaware County Sheriff's Office ("Sheriff"), whose principal place of business is located at 149 N. Sandusky St., Delaware, Ohio 43015, and Stanley Convergent Solutions, Inc. ("Stanley") whose principal place of business is located at 8350 Sunlight Dr. Fishers, IN 46037. (Individually "Party," collectively "Parties").

1. Description of Services.

The purpose of this Contract is to provide CCTV system upgrades and repairs. The Services shall be rendered by the Contractor in accordance with the following documents, by this reference made part of this Agreement:

Stanley Exhibit 1: "Quotation #180397."

2. Compensation, Contract Maximum, and Term.

In exchange for the Services, Sheriff shall pay Stanley Two Hundred and Fifty Two Thousand and Three Hundred and Seventy Dollars and No Cents (\$252,370.00) for the term of this Contract. It is expressly understood and agreed, unless otherwise agreed in writing by the Parties, that in no event shall the total amount to be paid under this Contract exceed the maximum of Two Hundred and Fifty Two Thousand and Three Hundred and Seventy Dollars and No Cents (\$252,370.00).

This contract shall be effective upon the date when the final party executes this contract and continues through satisfactory completion of the project, unless otherwise terminated as provided in this Contract.

3. Taxes.

Delaware County, Ohio is a political subdivision and tax exempt. Stanley shall not charge the Sheriff any tax and agrees to be responsible for all tax liability that accrues to Stanley as a result of this Contract and the Services that Stanley provides to the Sheriff pursuant to this Contract. Sheriff shall, upon request, provide Stanley with proof of exemption.

4. Warranty.

Stanley warrants its work and equipment as set forth in Exhibit 1.

5. Termination.

A Party may terminate this Contract for convenience at any time and for any reason upon delivering thirty (30) days written notice to the other Parties.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Contract, except that Stanley shall be entitled to receive compensation for any Services satisfactorily performed hereunder through the date specified on the notice as the effective date of termination.

The Parties retain and may, without limitation, exercise any and all available administrative, contractual, equitable or legal remedies.

If the Contract is terminated pursuant to this Section, Stanley shall have no cause of action against Sheriff, and/or Delaware County, Ohio related to such termination except for a cause of action for non-payment for the Services rendered prior to the effective date of termination. In no event will Sheriff, and/or Delaware County, Ohio be obligated to pay for any Services not actually performed by Stanley.

6. Indemnification.

Stanley shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other

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person for whose acts any of them may be liable.

7. Insurance.

- A. **General Liability Coverage:** Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- B. **Automobile Liability Coverage:** Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- C. **Workers' Compensation Coverage:** Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- D. **Additional Insureds:** Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 10.1 and 10.2. Contractor shall require all of its subcontractors to provide like endorsements.
- E. **Proof of Insurance:** Prior to the commencement of any Services under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of Services under this Agreement.

8. Independent Contractor.

Stanley agrees that it shall act in performance of this Contract as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Contract.

Stanley assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Contract. Stanley and/or its officers, officials, employees, representatives, agents, and/or volunteers are not entitled to any benefits enjoyed by employees of Sheriff or Delaware County.

Provisions Relating to Compliance with State and Federal Law

9. Campaign Finance-Compliance with RC§3517.13.

Ohio Revised Code Section 3517.13 1(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. Stanley 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 Contract will prohibit the Sheriff from entering, proceeding with, and/or performing the Contract. Such certification is attached to this Contract as Exhibit A and by this reference made a part of this Contract.

10. Certification for Findings for Recovery.

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

Patrick Hickok
Authorized

11. Agent Independent Contractor Acknowledgement/No Contribution to OPERS.

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Sheriff and Delaware County, Ohio (for purposes of this section collectively "County") are public employers as defined in R.C. § 145.01(D). The County has classified STANLEY 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 Stanley 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 this Contract. Stanley acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Stanley is an individual or has less than five (5) employees, Stanley, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor Acknowledgement Form ("Form") . The Form is attached hereto as Exhibit Band by this reference is incorporated as a part of this Contract. Sheriff shall retain the completed Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If Stanley has five (5) or more employees, Stanley, by signature of its representative below, hereby certifies such fact in lieu of completing the Form:



Patrick Hickok
Authorized Agent

12. Non-discrimination.

Stanley certifies and agrees as follows:

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall comply with any and all applicable federal, state, and/or local laws prohibiting discrimination and providing for equal opportunity.

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall not in any way or manner discriminate on account of race, color, religion, sex, age, disability, handicap, sexual orientation, gender identity, or military status as defined in RC. § 4112.01, national origin, or ancestry.

13. Accessibility.

Stanley certifies and agrees as follows:

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall make all services/programs provided pursuant to this Contract accessible to the disabled/handicapped.

Stanley, all subcontractors, and/or any person acting on behalf of Stanley or any subcontractor shall comply with any and all applicable federal, state, and/or local laws mandating accessibility and 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.

14. Certification Regarding Personal Property Taxes.

By signature of its representative below, Stanley hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio. ·

Patrick Hickok
Authorized Agent

15. Drug Free Environment.

Stanley agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. Stanley shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

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16. Performance Bond

Simultaneously with his/her delivery of the executed contract, the Contractor shall furnish a surety bond as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner. The bond shall be for 100 percent of the contract price. A Performance Bond meeting the requirements of O.R.C. 153.54 is required. Attorneys-in-Fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

17. Prohibited Interests.

Stanley agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.

Miscellaneous Terms and Conditions

18. No Exclusivity.

Stanley shall not be the exclusive provider of the Services. Sheriff and Board, in their sole discretion, may utilize other contractors to perform/provide the same or similar Services.

19. Entire Agreement.

This Contract (and its Attachments) shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements, whether written or oral, between the Parties relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties.

20. Severability.

The provisions of this Contract 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.

21. Governing Law.

This Contract shall be construed in accordance with the laws of the State of Ohio and all legal disputes arising from this Contract shall be filed in and heard before the courts of Delaware County, Ohio.

22. Notice.

Any notice or communication required or permitted under this Contract shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the addresses set forth in the opening paragraph or to such other address as one party may have furnished to the other Parties in writing and shall be made to the addresses listed in the preamble.

23. 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.

24. Assignment and Subcontracting.

The Parties may not assign or transfer this Contract without the prior written consent of the non-assigning Parties, which approval shall not be unreasonably withheld. Stanley may not subcontract any portion of this Contract.

25. Headings.

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The subject headings of the paragraphs in this Contract are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

26. Competitive Bidding.

Consistent with R.C. § 307.86 and the requirements of such statute, this Contract is not required to be competitively bid. This contract qualifies under R.C. 307.86(B)(1).

27. Conflicts between Documents.

In the event of a conflict between the provisions of this document and Stanley Exhibit I, this document will prevail.

28. Drafting, Counterparts, and Signatures.

This Contract 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.

**STANLEY CONVERGENT SECURITY SOLUTIONS, INC
CONSTRUCTION CONTRACT ADDENDUM**

This Addendum is attached to and incorporated by reference into that Contract for Services (the "Agreement") between Stanley Convergent Security Solutions, Inc. (hereinafter "Subcontractor" or "SCSS") and Delaware County Sheriff's Office (hereinafter "Owner").

1. **Applicability:** This Addendum is intended to modify and/or clarify the Agreement as it pertains to the Work on the above Project. If a conflict or inconsistency exists between the Agreement and this Addendum, then this Addendum shall prevail. Owner expressly agrees and understands that under no circumstances shall the Agreement or any attachments or modifications hereto bind SCSS to the terms and conditions of any agreement between Owner and any other party that are in any way contrary to this Addendum or which expand SCSS's liability beyond that expressly stated in the Agreement and this Addendum.

2. **Indemnification:** In no event will SCSS, its employees, agents or representatives be responsible for consequential, incidental or special damages or for the negligence of others.

3. **Hazardous Materials:** In all cases except when the project involves new construction, Owner represents and warrants that to the best of Owner's knowledge the work site is free of any hazardous materials. As used herein, the term "hazardous materials" shall include but not be limited to asbestos, asbestos containing material, polychlorinated biphenyl ("PCB"), formaldehyde or other potentially toxic or otherwise hazardous material. If any such substance is discovered on the work site, SCSS will not be required to install or service the equipment at such site unless and until Owner certifies the removal or safe containment of such hazardous materials.

4. **WARRANTY DISCLAIMER:** EXCEPT FOR ANY WARRANTIES AGREED UPON IN THE AGREEMENT SCSS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. If applicable, Owner shall not assess liquidated or delay damages against SCSS unless and until the Owner gives written notification of intent and basis of determination of amounts and degree of responsibility of SCSS and all other Owners. Such written notification must be given within a reasonable period of time after the occurrence for which the Owner seeks to assess damages, not to exceed ten (10) days after the alleged event causing the damage. However, liquidated and/or delay damages, taken in the aggregate, shall not exceed 10% of the Agreement price.

Except as expressly set forth in this Addendum, all of the terms and conditions of the Agreement entered into between the parties remain in full force and effect.

(A copy of exhibit A is available in the Commissioners' Office until no longer of administrative value)

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

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IN THE MATTER OF AUTHORIZING THE PURCHASE OF PICKUP TRUCKS FOR THE COUNTY ENGINEER’S OFFICE:

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

WHEREAS, pursuant to section 5549.01 of the Revised Code, the Board of Commissioners (the “Board”) may purchase machinery and equipment for the construction, improvement, maintenance, or repair of the highways, bridges, and culverts under its jurisdiction as it deems necessary and may also purchase, hire, or lease automobiles, motorcycles or other conveyances and maintain them for the use of the county engineer and the county engineer’s assistants when on official business; and

WHEREAS, the County Engineer’s Office has a need for an additional five pickup trucks for use in performing the office’s official duties; and

WHEREAS, the Board participates in the State of Ohio’s cooperative purchasing program; and

WHEREAS, the pickup trucks are available for purchase via the State of Ohio cooperative purchasing program;

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

Section 1. The Board hereby authorizes the purchase of two 2019 FCA Ram Pickup Trucks, Model Regular Cab 4 WD, Model Number DS1L62, at the price of \$19,908 each, for a total price of \$39,806 from Sherry Chrysler.

Section 2. The Board hereby authorizes the purchase of two 2019 Ram Pickup Trucks, Model 1500 Quad 4x4, Model Number DS6L41, at the price of \$24,330 each, for a total price of \$48,660 from Sherry Chrysler.

Section 3. The Board hereby authorizes the purchase of one 2019 Ford Pickup Truck, Model F-350, Model Number XD3, for a total price of \$30,199.11 from Middletown Ford.

Section 4. The purchases authorized in Sections 1, 2 and 3 hereof shall be subject to State of Ohio Index #GDC093, Contract #RS902619 in the State of Ohio cooperative purchasing program, which is fully incorporated herein and of which the purchase order shall be made a part.

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

19

RESOLUTION NO. 19-313

IN THE MATTER OF APPROVING A DITCH MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENT FOR WARREN FAMILY FUNERAL HOMES, INC.:

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

WHEREAS, on April 8, 2019, a Ditch Maintenance Petition for Warren Family Funeral Homes, Inc., aka Newcomer Funeral Home, was filed with the Board of Commissioners of Delaware County (the “Board”), and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within Newcomer Funeral Home located off of Brewster Lane in Liberty Township; and

WHEREAS, the Petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the Real Estate Taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the Petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

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

Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as

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follows:

The cost of the drainage improvements is \$7,424.21 for the benefit of the lot(s) being created in this site. The developed area of 2.9 acres will receive benefits (cost) of the project on a per acre basis. The basis for calculating the assessment for each lot is therefore \$2,236.21 per acre. An annual maintenance fee equal to 2% of this basis (\$148.48) will be collected for each developed lot. It is understood that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year’s assessment for all of the lots in the amount of \$148.48 has been paid to Delaware County, receipt of which is hereby acknowledged.

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

**20
RESOLUTION NO. 19-314**

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

It was moved by Mr. Benton, seconded by Mr. Merrell 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
U19-060	AEP	Hyatts Road	Install, remove and replace poles
U19-061	Columbus Gas	Sycamore Trail	Installing gas main

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

**21
RESOLUTION NO. 19-315**

IN THE MATTER OF APPROVING A GRANT OF FUNDS TO THE DELAWARE COUNTY TRANSPORTATION IMPROVEMENT DISTRICT:

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

WHEREAS, the Delaware County Board of Commissioners (the “Board”) approved a Master Intergovernmental Cooperation Agreement (“the Agreement”) with the County Engineer and Delaware County Transportation Improvement District (“TID”) by Resolution No. 18-1374, including authorizing the contribution of funds to the TID in aid of the planning, development, design, construction, maintenance or repair of any transportation project undertaken by the TID; and

WHEREAS, pursuant to section 5540.02(F) of the Revised Code, a board of county commissioners may make appropriations from moneys available to it and not otherwise appropriated, to pay costs incurred by a transportation improvement district in the exercise of its functions under Chapter 5540 of the Revised Code; and

WHEREAS, the Board has appropriated \$800,000.00 in the general fund (10040421) for Grants in Aid to other local political subdivisions for the making of transportation improvements within Delaware County, with the intention of reserving \$400,000 of said appropriation for support of the TID;

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

Section 1: In accordance with the terms of the Agreement, a grant in aid in the amount of Four Hundred Thousand Dollars (\$400,000.00) is hereby made to the Delaware County Transportation Improvement District for the purpose of providing for planning, development, design, construction, maintenance or repair of any transportation project undertaken by the TID; and

Section 2: The County Auditor is authorized to issue a warrant for payment from Org Key-Object 10040421-5601 at the earliest date possible.

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

**22
RESOLUTION NO. 19-316**

IN THE MATTER OF AMENDING RESOLUTION NOS. 12-1403 AND 17-1387 TO REVISE CAPITAL

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PROJECTS FUNDS ESTABLISHED IN ACCORDANCE WITH O.R.C. 5705.13:

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

WHEREAS, on December 20, 2012, the Delaware County Board of Commissioners (the “Board”) adopted Resolution No. 12-1403, establishing a capital projects fund (Fund 417 – Capital Acquisitions & Projects), pursuant to section 5705.13(C) of the Revised Code, to pay for the costs of acquiring, constructing, or improving fixed assets of the County; and

WHEREAS, on December 28, 2017, the Board adopted Resolution No. 17-1387, establishing a capital projects fund (Fund 420 – Capital Improvement Reserve Fund), pursuant to section 5705.13(C) of the Revised Code, to pay for the costs of acquiring, constructing, or improving fixed assets of the County; and

WHEREAS, a resolution creating a capital projects fund, pursuant to section 5705.13(C) of the Revised Code, shall identify the source of the money to be used to acquire, construct, or improve the fixed assets identified in the resolution, the amount of money to be accumulated for that purpose, the period of time over which that amount is to be accumulated, and the fixed assets that the Board intends to acquire, construct, or improve with the money to be accumulated in the fund; and

WHEREAS, the Board desires to revise the capital projects funds established in Resolution Nos. 12-1403 and 17-1387 to reflect increases in the amount of money to be accumulated therein;

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

Section 1. Fund 417 and Fund 420, established pursuant to section 5705.13(C) of the Revised Code, are each for the purpose of acquiring, constructing, or improving fixed assets, including motor vehicles, new or existing county buildings, and electronic communications and data processing equipment.

Section 2. The source of the money accumulated in Fund 417 shall be the General Fund, and the source of the money accumulated in Fund 420 shall be the General Fund.

Section 3. The Board hereby declares that the amount of money to be accumulated in Fund 417 shall not exceed \$4,908,811.07, unless and until the Board amends this Resolution to provide for additional amounts to be accumulated in Fund 417 for the purposes stated herein. The Board hereby declares that the amount of money to be accumulated in Fund 420 shall not exceed \$12,945,000.00, unless and until the Board amends this Resolution to provide for additional amounts to be accumulated in Fund 420 for the purposes stated herein.

Section 4. In accordance with section 5705.13(C), all funds accumulated in Fund 417 shall not be accumulated beyond December 20, 2022, and any contract for the acquisition, construction, or improvement of the fixed assets identified in this Resolution to be paid for out of Fund 417 shall be entered into on or before December 20, 2022. Any remaining unencumbered funds accumulated in Fund 417 on December 20, 2022 shall be transferred to the county general fund, and Fund 417 shall thereupon be rescinded.

Section 5. In accordance with section 5705.13(C), all funds accumulated in Fund 420 shall not be accumulated beyond December 28, 2027, and any contract for the acquisition, construction, or improvement of the fixed assets identified in this Resolution to be paid for out of Fund 420 shall be entered into on or before December 28, 2027. Any remaining unencumbered funds accumulated in Fund 420 on December 28, 2027 shall be transferred to the county general fund, and Fund 420 shall thereupon be rescinded.

Section 6. This Resolution amends Resolution Nos. 12-1403 and 17-1387 and shall take immediate effect upon adoption.

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

23

RESOLUTION NO. 19-317

IN THE MATTER OF APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE BOARD OF ELECTIONS:

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

Supplemental Appropriation

10016101-5450	Board of Elections/Machinery and Equipment	1,991,568.00
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Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

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RESOLUTION NO. 19-318

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AUTHORIZING PARTICIPATION IN A SUBLEASE-PURCHASE ARRANGEMENT WITH THE OHIO SECRETARY OF STATE FOR THE PURPOSE OF ACQUIRING AND IMPLEMENTING VOTING MACHINES AND EQUIPMENT AND FINANCING CERTAIN COSTS THEREOF, A SUBLEASE-PURCHASE AGREEMENT EVIDENCING SUCH ARRANGEMENT, AND MATTERS RELATED THERETO:

It was moved by Mr. Benton, seconded Mr. Merrell to adopt the following Resolution:

WHEREAS, pursuant to Amended Substitute Senate Bill 135 of the 132nd Ohio General Assembly (as the same may be amended, modified, revised, supplemented or superseded from time to time, the "Act") and the financing program authorized thereunder (the "SoS Financing Program"), the Secretary of State of the State of the Ohio (the "Sublessor") is providing financing to Ohio counties for the acquisition of voting systems, including, but not limited to, voting machines, marking devices, automatic tabulating equipment, and direct record electronic voting machines, as defined in Ohio Revised Code ("ORC") Section 3506.01, together with associated allowable expenditures, as defined in the Act; and

WHEREAS, in accordance with ORC Section 3506.02, it has been determined that the equipment used by the citizens of the County of Delaware, Ohio (the "Sublessee") to vote in federal, state and local elections shall be changed to that equipment described in the Proposal of RBM Consulting, LLC and Unisyn Voting Solutions, Inc. (the "Vendor") dated January 31, 2019 (the "Proposal"); and

WHEREAS, the Vendor has submitted a draft contract for the implementation of the Proposal to the Sublessee (the "Project Contract"), and the Sublessor has reviewed and approved the Project Contract (as it relates to the SoS Financing Program) and the Project Equipment (as hereinafter defined); and

WHEREAS, the Proposal requires the Sublessee to acquire certain voting machines and equipment (the "Project Equipment") and pay certain costs related to implementing the Proposal (along with the acquisition of the Project Equipment, the "Project") and this Board of County Commissioners of the Sublessee (the "Legislative Authority") desires to accept the Proposal, enter into the Project Contract, undertake the Project, and finance a portion of the cost of the Project by utilizing the provisions of the SoS Financing Program;

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

SECTION 1. It is hereby determined to be necessary, desirable and expedient, and in the best interests of the Sublessee and its citizens, for the Sublessee (i) to accept the Proposal, (ii) enter into the Project Contract, (iii) acquire the Project Equipment, and (iv) finance a portion of the costs of the Project Equipment (the "State-Financed Equipment") and other costs of the Project by participating in the SoS Financing Program.

SECTION 2. The Sublessee's participation in the SoS Financing Program shall be evidenced by a Sublease-Purchase Agreement between the Sublessor and the Sublessee (together with all exhibits and appendices thereto, the "Sublease"). At least two members of the Legislative Authority and the Sublessee's County Auditor (collectively, the "County Signers") are hereby separately and individually authorized, alone or with others, to execute and deliver the Sublease on behalf of the Sublessee in substantially the form presently on file with the Legislative Authority, which is hereby approved, with such changes not substantially adverse to the Sublessee as the County Signers may approve; the approval of such changes and that the same are not substantially adverse to the Sublessee shall be conclusively evidenced by the execution of the Sublease by the County Signers.

SECTION 3. All of the obligations of the Sublessee set forth and covenants made by the Sublessee under the Sublease are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Sublessee within the meaning of ORC Section 2731.01 *et seq.*

SECTION 4. Pursuant to the SoS Financing Program, the Sublessee shall not be required to make any scheduled payments towards the purchase of the State-Financed Equipment to the Sublessor or any other entity. To pay that portion of the cost of the Project not financed through the SoS Financing Program, there is hereby appropriated from the Sublessee's General Fund (i) the amount of \$2,200,000.00, and (ii) to pay the Sublessee's other obligations under the Sublease during this calendar year, the amount of \$0.00.

SECTION 5. The County Signers and other appropriate officers of the Sublessee, or any of them, are hereby separately and individually authorized and directed to (i) make the necessary arrangements with the Sublessor to establish the date, location, procedure and conditions for executing and delivering the Sublease, and delivering the Sublease to, the Sublessor, and (ii) give all appropriate notices and execute and deliver, on behalf of the Sublessee, such additional instruments, documents, agreements, certificates, and other papers as may be in their discretion necessary or appropriate in order to carry out, give effect to and consummate the transaction contemplated thereby in such forms as the official executing the same may approve, and to take all other steps necessary or appropriate to effect the due execution, delivery and performance of the Sublease pursuant to the provisions of this resolution. The Clerk of the Board of County Commissioners shall furnish to the Sublessor a true transcript of proceedings pertaining to the Sublease containing such information from the records of the Sublessee as is necessary to evidence or determine the regularity and validity of the authorization, execution and delivery of the Sublease. Each of the County Signers is hereby separately and individually designated to act as the authorized representative of the Sublessee for purposes of the Sublease until such time as the Legislative Authority

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shall designate any other or different authorized representatives for such purpose.

SECTION 6. The Sublease shall constitute a special obligation of the Sublessee. Nothing in the Sublease or any agreements or documents relating thereto shall constitute or be construed or deemed to constitute a debt, bonded indebtedness or a general obligation of the Sublessee. Neither the taxing power nor the full faith and credit of the Sublessee are pledged or shall be pledged for the payment or security of the Sublease, or any other related agreement or document.

SECTION 7. The Legislative Authority acknowledges that the Sublessor has obtained funds for the SoS Financing Program by utilizing a sublease-purchase / certificates of participation arrangement, and that the interest component of the Sublessor's lease payments thereunder is intended to be exempt from federal income taxation under the Internal Revenue Code of 1986, as amended and the regulations prescribed thereunder (the "Code"). The Legislative Authority hereby covenants that it will restrict the use of the State-Financed Equipment in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the Sublease is entered into, so that the interest portion of such lease payments by the Sublessor will not be subject to federal income taxation under the Code. Any County Signer or any other officer having responsibility with respect to the execution and delivery of the Sublease is authorized and directed to give an appropriate certificate on behalf of the Sublessee on the date of delivery of the Sublease, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the State-Financed Equipment and other matters under the Code.

SECTION 8. It is hereby determined that the terms of the Sublease and this resolution are in compliance with all legal requirements. If any section, paragraph, clause or provision of this resolution or the Sublease shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any remaining provisions of this resolution or the Sublease, respectively. Any provisions of any ordinance or resolution inconsistent with this resolution are hereby repealed, but only to the extent of such inconsistency; this provision shall not be construed as reviving any ordinance or resolution or any part thereof.

SECTION 9. It is found and determined that all formal actions of the Legislative Authority concerning and relating to the adoption of this resolution were adopted in an open meeting of the Legislative Authority, and that all deliberations of the Legislative Authority and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law, including ORC Section 121.22.

SECTION 10. This resolution shall take effect and be in force upon its adoption.

SUBLEASE-PURCHASE AGREEMENT

This Sublease-Purchase Agreement (as the same may be amended and supplemented in accordance with its terms, the "Sublease Agreement") is dated April 4, 2019 and entered into between the Secretary of State of the State of Ohio (the "Sublessor") and the County of Delaware, Ohio (the "Sublessee") under the following circumstances:

A. Pursuant to Amended Substitute Senate Bill 135 of the 132nd Ohio General Assembly (as the same may be amended, modified, revised, supplemented or superseded from time to time, the "Act") and the financing program authorized thereunder (the "SoS Financing Program"), the Sublessor is providing financing to Ohio counties for the acquisition of voting systems, including, but not limited to, voting machines, marking devices, automatic tabulating equipment, and direct record electronic voting machines, as defined in Ohio Revised Code ("ORC") Section 3506.01, together with associated allowable expenditures, as defined in the Act.

B. In accordance with ORC Section 3506.02, it has been determined that the equipment used by the citizens of the Sublessee to vote in federal, state and local elections shall be changed to that equipment described in the Proposal of RBM Consulting, LLC and Unisyn Voting Solutions, Inc. (the "Vendor") dated January 31, 2019 (the "Proposal").

C. The Proposal requires the Sublessee to acquire certain voting machines and equipment (the "Project Equipment") and pay certain costs related to implementing the Proposal (along with the acquisition of the Project Equipment, the "Project"), and the Sublessee has determined to accept the Proposal and undertake the Project.

D. The Vendor has submitted a draft contract for the implementation of the Proposal to the Sublessee (the "Project Contract"), and the Sublessor has reviewed and approved the Project Contract (as it relates to the SoS Financing Program) and the Project Equipment.

E. The Sublessee has determined to finance a portion of the cost of the Project, including a portion of the Project Equipment described in Exhibit A hereto (the "State-Financed Equipment"), by utilizing the provisions of the SoS Financing Program upon the terms set forth in this Sublease Agreement, and the Sublessor has agreed to make the sum of \$1,974,724.83 (the "State Contribution") available for such purpose.

F. The Sublessee's Board of County Commissioners (the "Legislative Authority") has authorized this Sublease Agreement by a resolution adopted April 8, 2019 (the "Authorizing Resolution").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Sublessor and the Sublessee, acting through the Legislative Authority, hereby represent, warrant and covenant as follows:

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1. **TERM OF AGREEMENT.** This Sublease Agreement shall be effective as of April 4, 2019 (the "Commencement Date"). The term of this Sublease Agreement for the purposes of payments shall commence as of the Commencement Date, and shall continue until the date the Sublessee receives the notice of the State COPs Termination, as defined in Paragraph 7 hereof (the "Agreement Term").

2. **PROJECT CONTRACT.** The Sublessee shall enter into the Project Contract contemporaneously with the execution and delivery of this Sublease Agreement and perform all of its obligations thereunder in the manner and at the times set forth therein. Promptly upon the execution and delivery of this Sublease Agreement by the Sublessor and the Sublessee, the Sublessee, acting through its Board of Elections, shall diligently and expeditiously proceed to acquire the Project Equipment and implement the Project in accordance with the Project Contract. The State-Financed Equipment shall be located as described in Exhibit A hereto. The Sublessor shall pay, or cause to be paid, the State Contribution, and the Sublessee shall pay all costs of the Project in excess of the State Contribution and for any costs not payable under the SoS Financing Program, in accordance with the Project Contract and the SoS Financing Program, and the Sublessee and the Sublessor shall coordinate their respective payments under the Project Contract with the Vendor so that such payments conform to the requirements of the Project Contract and the SoS Financing Program.

3. **USE OF THE STATE-FINANCED EQUIPMENT.** The Sublessee represents that all of the State-Financed Equipment that it will acquire in accordance with this Sublease Agreement will constitute a "voting system" within the meaning of the Act.

4. **TRANSFER OF TITLE TO THE SUBLESSOR.** Upon the delivery of the State-Financed Equipment to the Sublessee, all of the Sublessee's right, title and interest to and in the State-Financed Equipment shall be immediately transferred to the Sublessor without any further action on the part of the Sublessee. The Sublessee shall deliver to the Sublessor all documents which are or may be necessary to vest all of the Sublessee's right, title and interest in and to the State Financed Equipment in the Sublessor, and will release or cause to be released all liens and encumbrances with respect to the State-Financed Equipment.

5. **LEASE.** The Sublessee hereby leases from the Sublessor, for eventual acquisition and ownership, and the Sublessor hereby leases to the Sublessee, for eventual transfer of ownership to the Sublessee, all the State-Financed Equipment, in accordance with the provisions of this Sublease Agreement, to have and to hold for the Agreement Term.

6. **LEASE PAYMENTS.** Pursuant to the SoS Financing Program, the Sublessee shall not be required to make any scheduled payments towards the purchase of the State-Financed Equipment to the Sublessor or any other entity.

7. **PURCHASE AND CONVEYANCE.** The Sublessee shall not have the option to purchase the State-Financed Equipment prior to the end of the Agreement Term. The Sublessor has obtained funds for the SoS Financing Program by utilizing a lease-purchase / certificates of participation arrangement (the "State COPs Financing"), which by its terms, prevents the Sublessor from conveying title to the State-Financed Equipment to the Sublessee until all of the Sublessor's obligations under the State COPs Financing relating to the State-Finance Equipment have been provided for. Upon such event (the "State COPs Termination"), the Sublessor shall so notify the Sublessee and upon receipt of such notice, (i) the Sublessee shall be deemed to have purchased and acquired all of the State-Financed Equipment, (ii) title to the State-Financed Equipment, and all rights in the State-Financed Equipment granted by the Sublessee to the Sublessor under this Sublease Agreement, shall vest in the Sublessee, without any further action on the part of the Sublessor, and (iii) the Sublessor will deliver to the Sublessee all documents which are or may be necessary to vest all of the Sublessor's right, title and interest in and to the Equipment in the Sublessee, and will release all liens and encumbrances created under this Sublease Agreement with respect to the State-Financed Equipment.

8. **CARE AND USE.** The Sublessee (i) solely at its own cost and expense, shall maintain the Project in good operating order and condition, repair and appearance, and protect the same from deterioration other than normal wear and tear; (ii) solely at its own cost and expense, make all necessary, proper or appropriate repairs, replacements and renewals thereof, ordinary and extraordinary, foreseen and unforeseen, (iii) shall permit the use of the State-Financed Equipment only by the Sublessee's Board of Elections, within its normal capacity, without abuse, and in a manner contemplated by the Vendor; (iv) shall not make modifications, alterations or additions to the State-Financed Equipment (other than normal operating accessories or controls) without the prior written consent of the Sublessor, which shall not be unreasonably withheld, (v) comply with all laws, insurance policies and regulations relating to, and obtain and maintain any governmental licenses and permits required for, the use, maintenance, repair and operation of the State-Financed Equipment, (vi) shall not dispose, assign, transfer, pledge or otherwise encumber all or any part of the State-Financed Equipment with any mortgage, security interest, or lien, through the Agreement Term, without the prior written consent of the Sublessor, which consent may be withheld in the absolute discretion of the Sublessor, and (vii) pay all costs, claims, damages, fees and all utilities and other charges arising out of its possession, use, operation, maintenance and use of the Project. All modifications, repairs, alterations, additions, replacements, substitutions, operating accessories and controls shall accrue to the State-Financed Equipment and, unless leased from the Sublessor, become the property of the Sublessee. The Sublessor shall have the right, during normal hours and in compliance with appropriate security protocols employed by the Sublessee's Board of Elections, to enter upon the premises where the State-Financed Equipment is located in order to inspect, observe or otherwise protect the Sublessor's interest, and the Sublessee shall cooperate in affording the Sublessor the opportunity to so inspect. For the purpose of assuring the Sublessor that the State-Financed Equipment will be properly serviced,

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the Sublessee agrees to cause the State-Financed Equipment to be maintained pursuant to the Vendor's standard preventive maintenance contract and/or recommendations. The Sublessee agrees that the Sublessor shall not be responsible for any loss or damage whatsoever to the State-Financed Equipment, nor shall the Sublessor be responsible for latent defects, wear and tear or gradual deterioration or loss of service or use of the State-Financed Equipment or any part thereof, the Sublessor shall not be liable to the Sublessee or anyone else for any liability, claim, loss, damage or expense of any kind or nature caused directly or indirectly by the inadequacy of the Project or any item supplied by the Vendor or any other party, any interruption of use or loss of service or use of performance of any equipment, any loss of business or other consequence or damage, whether or not resulting from any of the foregoing. The Sublessee shall not do, or permit to be done, any act or thing which might materially impair the value of the State-Financed Equipment, will not commit or permit any material waste thereof, and will not permit any unlawful use to be made thereof. The Sublessee covenants that it will assist the Secretary of State in fulfilling its obligations (other than any payment obligations) under the Master Lease Agreement dated as of November 1, 2018, between the State of Ohio Leasing Corporation, Inc., as lessor, and the Secretary of State, as lessee, for the State COPs Financing as the Secretary of State may reasonably request.

9. TAXES, PERMITS. The Sublessee agrees to pay all license, sales, use, personal property, real property or other taxes together with any penalties, fines or interest thereon imposed or levied with respect to the State-Financed Equipment or the ownership, delivery, lease, possession, use, operation, sale or other disposition thereof or upon the rentals or earnings arising therefrom. Notwithstanding the foregoing, Sublessee may provide the Vendor with certificates of exemption from any or all of the taxes otherwise applicable to the State-Financed Equipment. The Sublessee may in good faith and by appropriate proceedings contest any such taxes so long as such proceedings do not involve any danger of sale, forfeiture or loss of the State-Financed Equipment or any interest therein. Furthermore, the Sublessee shall provide all permits and licenses necessary for the installation, operation and use of the State-Financed Equipment. The Sublessee shall comply with all laws, rules, regulations, ordinances and resolutions applicable to the installation, use, possession and operation of the State-Financed Equipment. If compliance with any law, rule, regulation, resolution, permit or license requires changes or additions to be made to the State-Financed Equipment, The Sublessee shall notify the Sublessor and upon the written consent of the Sublessor, such changes or additions shall be made by the Sublessee at its own expense.

10. UTILITIES. The Sublessee shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility service furnished to or used in connection with the State-Financed Equipment (including charges for installation of such services) during the Agreement Term. There shall be no abatement of any amount owed hereunder on account of the interruption of any such services.

11. SUBLESSEE'S RESPONSIBILITIES; RELEASE OF LIABILITY. Sublessee shall be responsible for any negligent acts and/or negligent omissions committed by itself, its agents, and/or its employees. Sublessee shall be responsible to defend itself, its agents, and/or its employees and shall pay any judgments and costs arising out of such negligent acts and/or negligent omissions, and nothing in this Sublease Agreement shall impute or transfer any such responsibility from Sublessee to the Sublessor.

On and after the date of this Sublease, the Sublessee agrees not to seek any determination of liability against the Sublessor or, any department, agency or official of the State of Ohio in the case of claim or suit arising with respect to the Project including acquisition of property or any future condition, construction, operation, maintenance or use of property or facilities which may be developed in relation to the Project. To the extent permitted by law, the Sublessee forever releases and waives any and all claims it may ever possess or assert against the Sublessor and all employees, agents, officials and contractors and attorneys of same in relation to the Project.

12. DISCLAIMER OF WARRANTIES: THE SUBLESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF ANY OF THE STATE-FINANCED EQUIPMENT OR AS TO ITS TITLE THERETO OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE STATE-FINANCED EQUIPMENT. The Sublessor hereby assigns to the Sublessee for and during the Agreement Term all manufacturer's warranties or guaranties, express or implied, issued on or applicable to the State-Financed Equipment and the Sublessor authorizes the Sublessee to obtain the customary services furnished in connection with such warranties or guaranties at the Sublessee's expense. The Sublessee acknowledges that the State-Financed Equipment has been acquired and installed by the Vendor selected by the Sublessee; that the Sublessor is not a manufacturer, contractor or dealer with respect to the components of the State-Financed Equipment and takes no part in or responsibility for the installation of the State-Financed Equipment, and that the Sublessor has made no representation or warranty and assumes no obligation with respect to the merchantability, condition, quality or fitness of the State-Financed Equipment or the enforcement of the manufacturer's warranties or guaranties.

13. QUIET ENJOYMENT. The Sublessor hereby covenants to provide the Sublessee during the Agreement Term with quiet use and enjoyment of the State-Financed Equipment, without suit, trouble or hindrance from the Sublessor except as expressly set forth in this Sublease Agreement. Any assignee of the Sublessor shall not interfere with such quiet use and enjoyment during the Agreement Terms so long as the Sublessee is not in default pursuant to this Sublease Agreement.

14. INSURANCE. Commencing the date risk of loss passes to the Sublessee from the Vendor and continuing thereafter until the end of the Agreement Term, the Sublessee, solely at its expense, shall keep the State-

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Financed Equipment insured against all risks of loss or damage from every cause whatsoever in an amount sufficient to cover the full replacement cost of the State-Financed Equipment set forth on Exhibit A, and shall carry public liability insurance, both personal injury and property damage, covering the State-Financed Equipment and its use. All insurance shall be of a type, form, in amounts and with companies or provided by a self-insurance program established and maintained by the Sublessee as permitted by ORC Section 2744.08 or a joint self-insurance pool established pursuant to ORC Section 2744.081 that Sublessee has entered a written agreement to join and contain terms and conditions satisfactory to the Sublessor. The Sublessee shall also carry worker's compensation insurance covering all its employees working on, in or about the State-Financed Equipment and shall require any other person, corporation, partnership or other entity working on, in or about the State-Financed Equipment to carry such coverage. Certificates of insurance or other evidence satisfactory to the Sublessor, including the original or certified copies of the actual policies showing the existence of insurance in accordance herewith, and payments therefor, shall be delivered to the Sublessor forthwith. All insurance policies shall name the Sublessor as additional insured and shall provide the Sublessor at least thirty (30) days written notice prior to cancellation. In lieu of the foregoing and with the consent of the Sublessor, the Sublessee may self-insure for some or all of the foregoing. Any proceeds of insurance payable as a result of loss of or damage to the State-Financed Equipment shall be applied as provided in Paragraph 15 hereof.

15. DAMAGE OR DESTRUCTION. In the event the State-Financed Equipment is totally or partially damaged or destroyed, the Sublessee will promptly replace or repair and restore the State-Financed Equipment to working order for the purpose intended. The Sublessee shall not be entitled to any reimbursement for any such damage or destruction from the Sublessor, nor shall the Sublessee be entitled to any diminution of the amounts payable by it pursuant to this Sublease Agreement; provided, however, that any proceeds of insurance paid to the Sublessor pursuant to Paragraph 14 hereof shall be credited against the Sublessee's payment obligations under this Paragraph.

16. EVENTS OF DEFAULT AND REMEDIES. The Sublessee shall be deemed to be in default hereunder upon the happening of any of the following events of default: (a) the Sublessee shall fail to make any payments required to be paid hereunder, (b) the Sublessee shall fail to keep any such other term, covenant or condition contained herein, or (c) if any representation or warranty by the Sublessee herein or in any agreement, document or certificate delivered to the Sublessor in connection herewith which, at any time, proves to be incorrect in any material respect. Upon the occurrence of an event of default as specified above, and the Sublessee shall fail to remedy such event of default with all reasonable dispatch within a period of 10 days for a default under subparagraph (a) hereof and 30 days for all other defaults, then the Sublessor or its assigns shall have the right, at its option without any further demand or notice, to pursue any one or more of the following remedies: (i) re-enter and take possession of the State-Financed Equipment, and sell or lease the State-Financed Equipment or sublease it for the account of the Sublessee, holding the Sublessee liable for all payments due to the effective date of such sale, lease or sublease; (ii) by mandamus or other suit, action or proceeding at law or in equity enforce all the Sublessor's rights hereunder, including the compelling of the performance of all duties of the Sublessee hereunder and the enforcement of the payment of any amounts hereunder then outstanding; and (iii) take any other action at law or in equity may appear necessary or desirable to collect the payments due during the then current agreement or to enforce performance and observance of any obligation, agreement or covenant of the Sublessee under this Sublease Agreement.

17. SURRENDER UPON DEFAULT. In the event of default as set forth in Paragraph 16 hereof, the Sublessee shall, upon the request of the Sublessor, peaceably surrender possession of the State-Financed Equipment to the Sublessor in the same condition as when delivered to the Sublessee by the Vendor less reasonable wear and tear.

18. NATURE OF THE OBLIGATIONS OF THE SUBLESSEE. All of the obligations of the Sublessee set forth and covenants made by the Sublessee under this Sublease Agreement are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Sublessee within the meaning of ORC Section 2731.01 et seq. To the extent permitted by law, any payment obligation of the Sublessee under this Sublease Agreement shall be an absolute and unconditional obligation of the Sublessee in all events and will not be subject to any set-off, defense, counterclaim or recoupment for any reason whatsoever. Notwithstanding any dispute between or among the Sublessee, the Sublessor and the Vendor, the Sublessee shall make all payments required of it hereunder when due and shall not withhold any payments or portions thereof pending final resolution of such dispute. The Sublessee hereby covenants that it will not assert any right of set-off or counterclaim against its obligation to make the payments required hereunder and that it will take such action as is necessary under the laws applicable to the Sublessee to budget for, seek appropriation for, and include and maintain funds sufficient and available to discharge its obligations to meet all payments due pursuant to provisions of this Sublease Agreement. Notwithstanding the foregoing and any other provision of this Sublease Agreement, the obligation of the Sublessee to make any expenditure of money hereunder is subject to the lawful appropriation of funds for such purpose by the Legislative Authority, and is not a debt of the Sublessee subject to payment from the general revenues or taxes of the Sublessee or within the meaning of any constitutional or statutory provision. Neither the Sublessor nor any other person shall have any right to have excises or taxes levied by the Legislative Authority for any such expenditure.

19. ASSIGNABILITY. The Sublessor may assign its right and interest in and to the State-Financed Equipment without notice to the Sublessee. Such assignee shall have full benefit of all the covenants made by the Sublessee and all rights and remedies of the Sublessor contained herein. The Sublessee shall not have the right to assign its rights, duties and obligations under this Sublease Agreement either in part or in whole without prior written consent to the Sublessor or its assignee.

20. COVENANTS OF THE SUBLESSEE. The Sublessee represents, covenants and warrants that it is a county and political subdivision of the State of Ohio and is authorized by the Constitution and laws of the State of

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Ohio to enter into the transactions contemplated by this Sublease Agreement and to carry out its obligations hereunder. The Sublessee has been duly authorized to execute and deliver this Sublease Agreement and agrees that it will do or cause to be done all things necessary to preserve and keep its existence in full force and effect. The Sublessee further represents, covenants and warrants that all procedures have been met so that this Sublease Agreement is enforceable and the Sublessee has complied with all bidding requirements if required.

21. NOTICES. All notices to be given under this Sublease Agreement shall be made in writing and mailed to the other party at its address set forth below or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received ten days subsequent to mailing.

As to the Sublessor:

Ohio Secretary of State
180 E. Broad Street, 16th Floor
Columbus, Ohio 43215
Attention: Voting Equipment
Acquisition Program

As to the Sublessee:

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky Street
Delaware, Ohio 43015

Attention:
Michael Frommer,
Delaware County Administrator

AND

Board of Elections
Delaware County, Ohio
2079 US Highway 23 N.
P.O. Box 8006
Delaware, Ohio 43015

Attention:
Karla Herron,
Director
Delaware County Board of Elections

22. FURTHER ASSURANCES. The Sublessee will, upon request of the Sublessor, at the Sublessee's sole cost and expense do and perform any other act and will execute, acknowledge, deliver, file, record and deposit (and will re-file, re-register, re-record, and re-deposit whenever required) any and all further instruments required by law for the Sublessor including, without limitation, financing statements or other documents needed for the protection of the Sublessor's interest.

23. GOVERNING LAW; COUNTERPARTS. This Sublease Agreement shall be governed by and in accordance with the laws of the State of Ohio. This Sublease Agreement may be signed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one contract.

24. CHOICE OF VENUE. The Sublessee agrees that, to the extent permitted by law, the state and federal courts located in Columbus, Ohio, or any other court in which the Sublessor initiates proceedings shall have exclusive jurisdiction over all matters arising out of this Sublease Agreement and that service of process in any such proceeding shall be effective if mailed to the Sublessee at its address set forth in Paragraph 21 hereof.

25. ENTIRE AGREEMENT. This Sublease Agreement correctly sets forth the entire agreement between the Sublessor and the Sublessee and no amendments or modifications of this Sublease Agreement shall be effective unless in writing and signed by both parties.

26. THE SUBLESSEE'S RESPONSIBILITIES. Nothing in this Sublease Agreement shall impute or transfer any responsibility from Sublessee to Sublessor.

27. FEDERAL INCOME TAX MATTERS. The Sublessee acknowledges that the Sublessor has obtained funds for the SoS Financing Program by utilizing the State COPs financing, and that the interest component of the Sublessor's lease payments thereunder is intended to be exempt from federal income taxation under the Internal Revenue Code of 1986, as amended and the regulations prescribed thereunder (the "Code"). The Sublessor hereby covenants that it will restrict the use of the State-Financed Equipment in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the Sublease is entered into, so that the interest portion of such lease payments by the Sublessor will not be subject to federal income taxation under the Code. To the extent permitted by law, the Sublessor shall be liable for any payments to the Internal Revenue Service or the U.S. Treasury as penalties or to preserve the tax-exempt status of the State COPs Financing, and any other costs, resulting in whole or in part from actions taken by the Sublessee, including the failure of the Sublessee to comply with federal income tax laws applicable to such obligation.

28. MAINTENANCE OF RECORDS. The Sublessee will keep and make all reports and records associated with the State-Financed Equipment available to the Auditor of the State of Ohio (the "State Auditor"), or the State Auditor's designee, or the Sublessor, for a period of not less than thirteen (13) years after the date of

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this Agreement. This data shall include a description of the State-Financed Equipment, a detailed overview of the scope of work, and disbursement detail (including amount, date, nature/object of expenditure), and Vendor information. The Sublessee acknowledges that the State Auditor and other departments, agencies and officials of the State of Ohio may audit the Project at any time, including before, during and after completion. To the extent permitted by law, the Sublessee agrees that any costs of any audit by the State Auditor or any other department, agency or official of the State of Ohio will be borne exclusively by and paid solely by the Sublessee. The Sublessee will be solely responsible for all costs associated with any such audit.

29. MISCELLANEOUS. The waiver by the Sublessor of the Sublessee's breach of any term, covenant or condition hereof shall not be a waiver of any subsequent breach of the same or any other term, covenant or condition. Any provision of this Sublease Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Sublease Agreement, and any provision of this Sublease Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Sublease Agreement.

THE EXHIBITS ATTACHED HERETO HAVE BEEN READ BY THE SUBLESSEE AND ARE INCLUDED IN AND MADE A PART HEREOF.

IN WITNESS WHEREOF, the Sublessor and the Sublessee, acting through the Legislative Authority, have caused this Sublease Agreement to be executed by their duly authorized signers as of the Agreement Date.

THE SUBLESSOR: SECRETARY OF STATE OF THE STATE OF OHIO

Frank LaRose

THE SUBLESSEE: COUNTY OF DELAWARE, OHIO

By: Barb Lewis, County Commissioner

By: Gary Merrell, County Commissioner

By: Jeff Benton, County Commissioner

Approved and Agreed To:
DELAWARE COUNTY BOARD OF ELECTIONS
By: Karla Herron, Director of Board of Elections

CERTIFICATION OF PROSECUTING ATTORNEY

Christopher D. Betts, Acting Prosecuting Attorney of the County of Delaware, Ohio, (the "Sublessee") and for the reliance of the Secretary of State of the State of Ohio (the "Sublessor"), do certify that from my examination of the Sublease Agreement dated as of April 4, 2019 (the "Agreement") between the Sublessee and the Sublessor and my knowledge of Sublessee's organization, that the Agreement has been duly authorized, executed and delivered by the Sublessee in accordance with the laws of the State of Ohio. The Sublessee is a county and political subdivision of the State of Ohio with full authority and legal capacity to perform all obligations and terms of the Agreement. Upon signature by the officers executing the Agreement, the Agreement will constitute a legal obligation of Sublessee in accordance with the terms thereof, and the Sublessee possesses the legal authority to fully perform all obligations incurred by the Sublessee. The Agreement has been authorized by the Board of County Commissioners of the Sublessee by Resolution No. _____ duly adopted by such Board on April ____, 2019.

PROSECUTING ATTORNEY OF THE COUNTY OF DELAWARE

Christopher D. Betts (0068030)
Acting Prosecuting Attorney
Delaware County, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, County Auditor of the County of Delaware, Ohio, as fiscal officer of such county, hereby certifies that the money required to meet the obligations of the such county during Fiscal Year 2019 under the attached Sublease-Purchase Agreement have been lawfully appropriated by the Board of County Commissioners of such county for such purposes and are in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.

This Certificate is given in compliance with Sections 5705.41 and 5705.44 of the Revised Code.
Dated: April 4, 2019
George Kaisa County Auditor County of Delaware, Ohio

EXHIBIT A
SCHEDULE OF STATE-FINANCED EQUIPMENT

The State-Financed Equipment consists of voting machines and equipment and more particularly described in Exhibit A-1 hereto.

EQUIPMENT LOCATION

When not in use at polling locations, the Equipment will be located at the following address:
Delaware County Board of Elections
2079 US Highway 23 N.
P.O. Box 8006
Delaware, Ohio 43015

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OTHER USES OF STATE CONTRIBUTION

The other uses of the State Contribution are described in Exhibit A-2 hereto.

**EXHIBIT A-1
LIST OF STATE-FINANCED EQUIPMENT**

Equipment Description Cost Amount Provided by SoS Financing Program

DELAWARE COUNTY, OHIO Ex A-1 – List of State Financed Equipment

Item	Description	Quantity	Unit Cost	Amount Financed by State
OVO-OPTICAL SCAN TABULATOR WITH BALLOT BOX AND FIRMWARE	Precinct Tabulators	120	\$4,625	\$555,000
FREEDOMVOTE WITH FIRMWARE AND CASE	Ballot Marking Device	682	\$2,605	\$1,419,724.83
Subtotal – “State-Funded” Items				\$1,974,724.83

**Exhibit A-2
OTHER USES OF STATE CONTRIBUTION**

Use or Purpose Cost Amount Provided by SoS Financing Program

DELAWARE COUNTY, OHIO Ex A-2 – Other Uses of State Contribution

Item	Description	Amount Financed by State
Services	Project Management, Installation, Training	\$0
State-Funded Items		\$0.00

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

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RESOLUTION NO. 19-319

IN THE MATTER OF APPROVING A MASTER AGREEMENT FOR PURCHASE OF VOTING SYSTEM WITH RBM CONSULTING, LLC, AND THE FIRST AMENDMENT THERETO:

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

WHEREAS, the Delaware County Board of Elections recommends approval of a Master Agreement for Purchase of Voting System with RBM Consulting, LLC, and recommends approval of the First Amendment to the Master Agreement for Purchase of Voting System;

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

Section 1. The Board hereby approves the Master Agreement for Purchase of Voting System with RBM Consulting, LLC, and the First Amendment to the Master Agreement for Purchase of Voting System, in substantially the form set forth herein.

Section 2. The Board hereby formally requests that the Board of Elections provide regular status updates, at least on a monthly basis, to keep the Board fully informed regarding performance of the Master Agreement, specifically, but not limited to, the requirements set forth in Section 6(B) of the Master Agreement and License Agreement Exhibit 4 – List of Additional Functions and Enhancements.

**RBM CONSULTING
MASTER AGREEMENT FOR
PURCHASE OF VOTING SYSTEM**

This Master Agreement for Purchase of Voting System is entered on this March 26, 2019 by and between RBM Consulting, LLC (“RBM”), whose principal place of business is located at 5257 E. 10th Street, Indianapolis, IN 46219, and the Board of Commissioners, Delaware County, Ohio (“BOC”), whose principal place of business is located at 101 N. Sandusky St., Delaware, Ohio 43015, for and on behalf of the Board of Elections, Delaware County, Ohio (“BOE”), whose principal place of business is located at 2079 US Hwy. 23 N., P.O. Box 8006,

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Delaware, Ohio 43015 (BOC and BOE collectively "CLIENT") (individually "Party," collectively "Parties").

WHEREAS, CLIENT is in need of a Voting System, including all Voting Machines, equipment, and services, to conduct local, state, and federal elections in Delaware County, Ohio; and,

WHEREAS, RBM is willing to provide such Voting System to CLIENT at an agreed upon price.

NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE.

The purpose of this Agreement is to state the covenants and conditions under which RBM shall provide to CLIENT a complete Voting System, including all Voting Machines, hardware, software, firmware, peripherals equipment, licenses, and services, to conduct elections in Delaware County, Ohio.

2. DEFINITIONS.

- **Agreement.** Agreement means this Master Agreement for Purchase of Voting System, including all incorporated exhibits, schedules, and attachments.
- **Contract.** Contract means Contract No: OT902619 awarded by DAS as a part of the Program, following a request or invitation for bids (RFB or ITB), and all associated Contract bidding documents.
- **County.** County means Delaware County, Ohio.
- **DAS.** DAS means the Ohio Department of Administrative Services.
- **Deliverables.** Deliverables means that portion of the Voting System consisting of all Voting Machines and all equipment, hardware, software, firmware, peripherals, licenses, and/or other physical or deliverable items of any and all types used in conjunction or associated with the Voting Machines and Services.
- **Program.** Program means the DAS Cooperative Purchasing Program.
- **Services.** Services means that portion of the Voting System consisting of all services of any and all types provided as a part of, in connection with, or associated with delivery, implementation, set-up, training, maintaining, repairing, updating, up-grading, and/or servicing the Voting System and all equipment, hardware, software, firmware, peripherals, licenses, and other physical or deliverable items used in conjunction or associated with the Voting Machines and/or Voting System.
- **SOS.** SOS means the Ohio Secretary of State.
- **State.** State means the State of Ohio.
- **Voting Machine.** Voting Machine has the same meaning as is defined in R.C. § 3506.01(E) and includes all hardware, software, firmware, peripherals, and licenses that are a part of or are used in conjunction or associated with the Voting Machine.
- **Voting Machine Carts.** Voting Machine Carts means the wheeled frames upon which the Voting Machines are semi-permanently mounted for purposes of 1) the operation of the Voting Machines for voting, 2) transportation of the Voting Machines to and from polling locations, 3) storage of the Voting Machines, and 4) to house the battery back-up for the Voting Machines and other voting equipment and supplies. Voting Machine Carts are not part of the Unisyn Voting Solutions, Inc. (Unisyn), OpenElect® Voting System, but are a necessary and required accessory for the proper A) operation of the Voting Machines for voting, B) transportation of the Voting Machines, C) storage of the Voting Machines, and (D) to house the battery back-up for the Voting Machines and other voting equipment and supplies.
- **Voting System.** Voting System has the same meaning as is defined in Contract No: OT902619 awarded by DAS as a part of the Program, and includes, but is not limited to, all Voting Machines, Voting Machine Carts, tabulation equipment, other voting equipment, Deliverables, and Services.

3. TERM.

The Term of this Agreement is does not apply to Deliverables.

The term of this Agreement for Services shall become effective on and be inclusive of the date the last Party signs this Agreement and shall continue through the applicable dates set forth in this Agreement or its exhibits, unless otherwise terminated as provided in this Agreement.

4. RENEWAL.

This Agreement shall not automatically renew. However, upon signed written agreement of the Parties, the Services portion of this Agreement may be renewed subject to the same terms and conditions provided herein and upon any such terms and conditions as may be specifically agreed upon, added and/or amended in writing by the Parties.

5. SCOPE OF SERVICES.

RBM shall provide to CLIENT the Voting Machine Carts and the Voting System, including all associated Voting Machines, equipment, Deliverables and Services, as defined, listed, and set forth in the attached

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Statements of Work (“SOW”) and exhibits. The Voting System shall be fully compliant with all applicable Ohio election laws, rules, and regulations as of the date of this Agreement and all requirements specified by the ITB as published by the State of Ohio DAS and certification requirements of the US Election Assistance Commission (EAC) and State of Ohio as of the date of this Agreement. RBM shall deliver, implement, and install the Voting System and perform and complete all Services as provided in this Agreement and/or the attached SOW and exhibits and, as applicable, shall coordinate and schedule the same in advance with the BOE Director and/or Deputy Director.

6. FINANCIAL AGREEMENT.

A. Fees.

In exchange for RBM satisfactorily providing the Voting System, including all associated Voting Machines, Voting Machine Carts, Deliverables and Services in compliance with the requirements of the ITB or, if no ITB requirements, the requirements of the BOE, as mutually determined by the Parties, the CLIENT and State shall pay RBM their respective portions of the fees set forth in the SOW and exhibits.

Consistent with Ohio Am. Sub. SB 135, 132nd G.A. and SOS Advisory 2018-04, the SOS shall coordinate and make payment for the State-funded parts of the Voting System and Services directly to RBM. The CLIENT shall be responsible for payment for those parts of the Voting System and Services that are not State-funded or that exceed the amount of the County’s allocation of State funds. Under no circumstances shall the CLIENT be held liable for payment of the State portion of the fees.

B. Retainer

RBM/Unisyn Voting Solutions, Inc. (“Unisyn”) and CLIENT agree to a retainer applicable to the portion of the Total System Cost (“Fees”) paid by the CLIENT to RBM/Unisyn. Upon execution of this Agreement, the CLIENT shall pay RBM \$1,000,000.00 of the Fees payable by the CLIENT to RBM/Unisyn. The CLIENT shall retain the balance of the Fees to be paid contingent on the successful and satisfactory performance of RBM, Unisyn, and the Voting System, as mutually determined by the Parties, of the following events:

- **May 7, 2019 Primary Election.** Upon the successful and satisfactory performance of RBM, Unisyn, and the Voting System at this election, as mutually determined by the Parties, CLIENT upon invoice shall pay to RBM \$250,000.00 of the Fees being retained by CLIENT.
- **October 15, 2019.** RBM shall submit the Voting System to the EAC and Ohio Board of Voting Machine Examiners for full certification by no later than October 15, 2019. Upon written proof of such submissions being provided by RBM to the BOE and certification, CLIENT upon invoice shall pay to RBM an additional \$350,000.00 of the Fees being retained by CLIENT.
- **November 5, 2019 General Election.** Upon the successful and satisfactory performance of RBM, Unisyn, and the Voting System at this election, as mutually determined by the Parties, CLIENT upon invoice shall pay to RBM \$487,007.17 of the fees being retained by CLIENT (i.e. balance minus \$350,000.00 if certification has not yet been obtained).

C. Maximum Payment.

The maximum amount payable by the CLIENT pursuant to this Agreement is \$2,200,000.00. This maximum does not include any amounts directly payable by the State of Ohio.

D. Taxes.

The State, BOC, BOE, and Delaware County, Ohio and all boards, departments, offices, and agencies thereof are exempt from all federal, state, and local taxes. As such, the State and CLIENT shall not be invoiced for and shall not pay any taxes. A tax exempt certificate shall be provided to RBM upon request.

E. Competitive Bidding Not Required/ Certification of Compliance with State Contract.

This Agreement is pursuant to Contract No: OT902619 awarded by DAS as a part of the Program, following a request for bids (RFB). Delaware County, Ohio is an active member of the Program. Accordingly, consistent with R.C. § 125.04(B)(3), this Agreement is not required to be competitively bid.

The Contract as originally executed and later amended/revised, including all terms and conditions, special contract terms and conditions, exhibits, amendments, pricing schedules/pricelists, and attachments, are by this reference fully incorporated within this

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Agreement and are binding. To the extent that any terms and conditions of this Agreement conflict with those contained in the Contract, the terms and conditions of this Agreement shall prevail.

RBM hereby certifies that that the Voting System, Voting Machines, Deliverables, and Services, and all pieces, parts, portions, equipment, and/or components of the Voting System, Voting Machines, Deliverables, and Services are listed in and/or covered by the Contract and its schedules/pricelists. RBM also certifies that all costs and charges are consistent with the pricelist approved as a part of the award of the Contract. RBM, by signature of its authorized representative below, hereby certifies such facts:

Signature

Printed Name

Title

RBM Consulting, LLC

F. Travel Expenses.

Travel Expenses for all pre-approved reasonable travel, lodging, meal, per diem and/or other expenses associated with travel incurred by RBM, its boards, officers, officials, directors, employees, agents, volunteers, and/or contractors in connection with providing the Voting System are included within the fees shown on the attached SOW and exhibits. CLIENT shall not be charged any additional Travel Expenses, unless additional Travel Expenses are first agreed to in writing signed by both Parties. In the event the Parties agree to additional Travel Expenses, such Travel Expenses shall be charged only for the types of expenses listed in the current Delaware County Employee Travel and Expense Reimbursement Policy located at:

<https://humanresources.co.delaware.oh.us/wp-content/uploads/sites/15/2018/07/Travel-Policy.pdf>

All reimbursements shall be at the rates listed in such policy.

G. Invoice and Payment.

To receive payment, RBM shall:

- Submit to the BOE a completed federal IRS W-9 form (Exhibit 1).
- Submit to the BOE a proper detailed invoice. A proper invoice is defined as an invoice free from defects, discrepancies, errors, and/or other improprieties and shall include, but is not limited to including, the following:
 - Invoice number;
 - Purchase order number;
 - RBM’s full name, address, telephone number, and facsimile number;
 - Name of a contact person with RBM in charge of billing, including a telephone number and email address for such contact person;
 - RBM’s federal employer identification number;
 - BOE’s full name and address;
 - Detail, including, but not limited to, the following:
 - A description of the Voting System, Deliverables, and/or Services provided.
 - Term/dates the Voting System, Deliverables, and/or Services were or are to be provided.
 - Delivery location for Deliverables and/or Services;
 - Itemized costs, including, but not limited to, rates, applicable discounts, the formula/means of arriving at the total amount owed, and total owed.

As applicable, the invoice shall be accompanied by documentation, satisfactory to the BOE, supporting the invoiced amount.

Upon submission of a proper invoice and, if applicable, any accompanying documentation, payment shall be made to RBM within sixty (60) days of the date of the invoice.

Defective invoices shall be returned to RBM noting areas for correction. When such notification of defect is sent, the required payment date shall be sixty (60) days after receipt of the corrected invoice.

The date payment is issued shall be deemed the date payment is made.

CLIENT shall pay interest at the lesser of a rate of 1.5% per month or the highest rate permitted

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costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any accident, damage, 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 RBM's or any subcontractor's performance of this Agreement or the actions, inactions, or omissions of RBM or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of RBM's or any subcontractor's boards, officers, officials, directors, employees, volunteers, agents, or representatives. RBM agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that RBM 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. RBM further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that RBM shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees.

- B. RBM 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 RBM, its subcontractors, and/or their respective boards, officers, officials, directors, employees, volunteers, agents, or representatives.

12. INFRINGEMENT.

Notwithstanding any limitation to the contrary in this Agreement or otherwise, RBM/Unisyn guarantees and warrants CLIENT free, uninterrupted, and unobstructed use of all and/or any portion of the Voting System, including all Voting Machines, Voting Machine Carts, Deliverables, and/or Services, and that the Voting System, including all Voting Machines, Voting Machine Carts, Deliverables, and/or Services, does not infringe on any trade secret, intellectual property right, or owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, programing, application, service, parts, equipment, property, and/or right. In the event that either of the Parties has or gains knowledge that the Voting System 1) actually or 2) potentially infringes on any trade secret, intellectual property right, or ownership, protection, license, trademark, patent, non-patent, and/or copyright, RBM/Unisyn shall, as applicable, take all of the following actions:

- At no cost to CLIENT, immediately secure the rights to possess or use the infringing or potentially infringing Voting System, Voting Machine, Voting Machine Carts, Deliverable, and/or Service so that CLIENT may continue to have free, uninterrupted, and unobstructed use of the Voting System, Voting Machine, Voting Machine Carts, Deliverable, and/or Service.
- If RBM/Unisyn is unable to secure rights to the infringing or potentially infringing Voting System, Voting Machine, Voting Machine Carts, Deliverable, and/or Service, RBM shall immediately provide to CLIENT, at no cost to CLIENT, a substitute Voting System, Voting Machine, Voting Machine Carts, Deliverable, and/or Service that, in the sole opinion of CLIENT, serves the same purpose, performs the same functions, and is of the same quality as the infringing or potentially infringing Voting System, Voting Machine, Voting Machine Carts, Deliverable, and/or Service or refund to CLIENT the entire cost of the Agreement and any attendant damages. In the event of such a substitution or refund, nothing shall prevent or limit CLIENT from pursuing any action against RBM/Unisyn for damages suffered by CLIENT.

To the fullest extent of the law and without limitation, RBM/Unisyn agrees to and shall indemnify and hold free and harmless the Indemnified Parties from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any actual or alleged infringement of any right to use or possess the Voting System, Voting Machines, Voting Machine Carts, Deliverables, and/or Services. RBM/Unisyn agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that RBM/Unisyn 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, fines, penalties, fees, and expenses. RBM/Unisyn further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that RBM/Unisyn shall pay, settle, compromise and procure the discharge of any and all judgments damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees.

13. INSURANCE.

In addition to the Insurance required by the Contract, RBM shall carry and maintain throughout the term of the Agreement, without lapse, the following policies of insurance with the following minimum coverage limits.

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- A. Commercial General Liability Insurance with minimum coverage limits of at least one million dollars (\$1,000,000.00) per occurrence, with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used. This insurance shall include, but not be limited to, the following coverage:
- Premises-Operations
 - Product and Completed Operation
 - Broad Form Property Damage
 - Contractual
 - Personal Injury
- B. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with minimum coverage limits of at least two million dollars (\$2,000,000.00).
- C. If vehicles are to be used by RBM in connection with this Agreement, Auto/Vehicle Liability Insurance covering all owned, leased, non-owned, and/or hired vehicles so used with minimum coverage limits of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

Prior to commencement of this Agreement, RBM shall present to the BOE current certificates of insurance for the required insurance and shall maintain current, without lapse, such insurance during and throughout the entire term of this Agreement.

The BOC, BOE, and Delaware County, Ohio shall be named as additional insureds on all required policy(ies) of insurance.

RBM shall be responsible for any and all premiums for all required policy(ies) of insurance.

The insurance company needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance company to bind coverage on its behalf.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance.

The above required insurance coverage shall be primary insurance as respects the Indemnified Parties and any insurance maintained by the Indemnified Parties shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide at least thirty (30) days written notice to BOE before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place.

If there is any change in insurance carrier or liability amounts, a new certificate of insurance must be provided to the BOE within seven (7) calendar days of change.

During the term of this Agreement, the BOE may require RBM to provide respective and/or additional certificate(s) of insurance in order to verify coverage. Failure to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default.

In addition to the rights and protections provided by the insurance policies as required above, the BOC, BOE, and Delaware County, Ohio shall retain all such other and further rights and remedies as are available to them at law or in equity.

14. WORKER'S COMPENSATION INSURANCE.

RBM shall carry and maintain throughout the term of the Agreement and without lapse Worker's Compensation Insurance as required by Ohio law and any other state in which work will be performed. RBM shall be responsible for any and all premiums for such policy(ies). At any time throughout the term of the Agreement the BOE may request proof of such insurance. Proof of such insurance shall be promptly provided upon request.

15. R.C. § 3506.10(P) GUARANTEE AND BOND.

Notwithstanding any limitation to the contrary in this Agreement or otherwise and pursuant to R.C. § 3506.10(P), RBM/Unisyn, as the person or corporation owning or manufacturing the Voting Machines being purchased or having the legal right to control the use of those Voting Machines, is required to and shall provide CLIENT, as a condition precedent to the purchase of the Voting Machines, with the following guarantee and bond:

- A. **GUARANTEE.** RBM shall provide CLIENT a written guarantee as required by R.C. § 3506.10(P), guaranteeing that the Voting Machines have been and continue to be certified by the

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SOS in accordance with R.C § 3506.05, comply fully with the requirements of R.C. § 3506.10, and will correctly, accurately, and continuously register and record every vote cast, and further guaranteeing those Voting Machines against defects in workmanship and materials for a period of five (5) years from the date of their acquisition (“Guarantee Period”). The Guarantee Period will commence upon delivery of the Voting Machines to CLIENT.

Pursuant to such guarantee, RBM/Unisyn shall repair or replace any component of the Voting Machines which, while under normal use and service: (i) fails to perform in all material respects in accordance with the manufacturer’s operation, use, and care documentation or manuals for the Voting Machines, or (ii) is defective in material or workmanship. Any repaired or replaced item of the Voting Machines shall be guaranteed for a new five (5) year period, the Guarantee Period for such item(s) commencing on the date of delivery of such item(s) to CLIENT.

Prior to providing the Voting Machines to CLIENT, RBM/Unisyn shall provide CLIENT with a written copy of such guarantee.

- B. **BOND.** Pursuant to R.C. § 3506.10(P), RBM shall post a bond in an amount sufficient to cover the cost of any recount or new election resulting from or directly related to the use or malfunction of the Voting Machines, accompanied by satisfactory surety, all as determined by the SOS, with the BOC. The amount of such bond shall be \$10,200.00 (170 Delaware County precincts x \$60 (cost of recount per precinct per SOS Dir. 2017-14).

Prior to providing the Voting Machines to CLIENT, RBM shall provide CLIENT with a written copy of such bond.

16. WARRANTY.

In addition to all other warranties contained in this Agreement, RBM shall fully provide the complete warranties contained in and required by the Contract (Contract No: OT902619) and Contract bidding documents.

RBM warrants that all of its and its subcontractor’s officers, employees, directors, volunteers, representatives, and/or agents that have or will perform the Services were or will be at the time of performance, legally and properly trained and/or licensed to perform the tasks they are required to perform as a part of the Services.

RBM also warrants that all Services shall be provided and performed in a professional and workman like manner.

Additionally, RBM/Unisyn further warrants that the Voting System, including all Voting Machines, Voting Machine Carts, Deliverables, and Services, are free from defects, conform to all specifications of the Contract and associated Contract bidding documents, conform to all manufacturer’s specifications, manuals, and/or manufacturer’s operation, use, and care documentation or manuals, conform to all current BOE standards, and are new, proper, correct, accurate, and/or are performed properly. RBM/Unisyn, without cost to CLIENT, shall promptly and properly fix, correct, re-perform, and/or replace the Voting System, including any Voting Machine, Voting Machine Cart, Deliverable, and/or Service, or any portion thereof provided pursuant to this Agreement that does not conform, is/are defective, and/or is not satisfactorily provided or performed.

RBM/Unisyn further warrants no other licenses of a type different than the type granted pursuant to this Agreement and/or the License Agreement (Exhibit D) or other Third-Party Software or other licenses are or shall be required to operate the Voting System and, if it is later determined such additional licenses are required, RBM and Unisyn shall jointly and severally bear all costs of such other or additional licenses.

17. MANUFACTURER’S WARRANTIES.

All provided software, hardware, and/or other Deliverables have independent factory and/or manufacturer warranties. Prior to delivery of any software, hardware, and/or other Deliverables to CLIENT, RBM shall fully explain to CLIENT all such factory and/or manufacturer warranties applicable to all provided software, hardware, and other Deliverables and provide CLIENT written copies of all such warranties. Should CLIENT need to make any claim under any such warranties, RBM shall, at no cost to CLIENT, assist CLIENT, use its best efforts, and fully cooperate with CLIENT with making, pursuing, and/or litigating to conclusion any claim under any such factory and/or manufacturer warranty.

18. LIMITATION OF LIABILITY.

EXCEPT FOR ALL WARRANTIES CONTAINED IN THIS AGREEMENT, THE CONTRACT (CONTRACT NO: OT902619), AND/OR THE CONTRACT BIDDING DOCUMENTS AND EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, RBM MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY CONCERNING MERCHANTABILITY OR FITNESS FOR A PARTICULAR

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PURPOSE. RBM SHALL IN NO EVENT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT OR GOODWILL, SUFFERED BY CLIENT OR CLIENT’S CUSTOMERS. IN THE EVENT RBM SHALL BE LIABLE TO CLIENT FOR ANY MATTER RELATING TO OR ARISING IN CONNECTION WITH THIS AGREEMENT, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE CONTRACT, AND/OR THE CONTRACT BIDDING DOCUMENTS, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, EQUITY, NEGLIGENCE, INTENDED CONDUCT, TORT OR OTHERWISE, THE AMOUNT OF DAMAGES RECOVERABLE AGAINST RBM FOR RBM EVENTS, ACTS OR OMISSIONS SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CLIENT TO RBM UNDER THIS AGREEMENT.

19. CONFIDENTIAL AND PROPRIETARY INFORMATION.

The Parties understand and agree that in the performance of this Agreement each Party may have access to confidential and/or proprietary information of the other Party. Such information shall be either marked as “confidential” and/or a separate written notice designating the information as confidential and/or proprietary shall be provided prior to any disclosure or release. Each of the Parties shall hold such information in confidence and not, without the consent of the other, disclose it to a third party or use it for any purpose other than in performance of this Agreement. This obligation of confidentiality shall not apply to any of the following information:

- Information that is disclosed in the regular course of business by either Party to its own respective boards, officers, officials, directors, employees, agents, volunteers, and/or representatives where such disclosure of information is beneficial to or necessary or required for the performance of this Agreement;
- Information that is generally available to the public through no act or omission of the receiving Party;
- Information that becomes known to the receiving Party through a third party with no obligation of confidentiality; or,
- Information that is required to be disclosed by law (i.e. public records laws), rule, or regulation, court order, or by any government or regulatory authority.

If any confidential or proprietary information is required to be disclosed, before any such disclosure the receiving Party shall provide notice to the disclosing Party reasonably sufficient to allow the disclosing Party the opportunity to apply for a protective order or other restriction regarding such disclosure. All confidential and/or proprietary information shall remain the exclusive property of the owner.

Confidential Information does not include this Agreement, including any SOW and exhibits.

20. CLIENT RESPONSIBILITIES.

CLIENT will assist RBM in the timely implementation and success of the Voting System, Voting Machines, Deliverables, and/or Services by supporting RBM as specified in the SOW.

21. CONTACTS.

RBM and BOE shall each assign and maintain throughout the term of this Agreement a contact person who is an employee or agent of the respective Party and who shall serve as a point of contact. The contacts of each Party are as follows:

RBM

Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

Telephone: _____

Email: _____

BOE (CLIENT)

Karla Herron
Director
Delaware County Board of Elections
2079 US Hwy. 23 N.
P.O. Box 8006
Delaware, Ohio 43015

Telephone:

(740) 833-2081

Email:

kherron@co.delaware.oh.us

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In the event the contact person and/or contact information changes, each Party shall immediately notify the other Party in writing of such change(s).

22. LICENSES.

RBM certifies and warrants that it, all RBM Employees engaged in the performance of this Agreement, and/or subcontractors have obtained and maintain current all approvals, licenses, including operator licenses, certifications, permits, and/or other qualifications or prerequisites (collectively "Licenses") necessary to fully perform this Agreement and to conduct business in the state of Ohio. RBM further certifies and warrants that all such Licenses are operative and current and have not been revoked or are not currently suspended for any reason. Proof of such Licenses shall be promptly provided upon request.

23. ACCESS TO RECORDS.

At any time during regular business hours, with reasonable notice, and as often as the CLIENT or other agency or individual authorized by the CLIENT may deem necessary, RBM shall make available to any or all the above named parties or their authorized representatives, at no cost, all contracts, subcontracts, invoices, receipts, reports, documents, and all other information or data, regardless of form or media, relating to all matters covered by this Agreement (collectively "Records"). The CLIENT and the above named parties shall be permitted by RBM and shall be entitled to inspect or audit and/or make excerpts, copies, and/or transcripts of the Records.

24. RECORDS RETENTION.

For a minimum of three (3) years after expiration or termination of this Agreement, RBM shall retain and maintain and assure that all of its subcontractors retain and maintain all Records. If an audit, litigation, or other action related to this Agreement is initiated during the term of this Agreement or the three (3) year retention period, RBM shall retain and maintain, and assure that all of its subcontractors retain and maintain the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever occurs last.

25. TERMINATION.

This Agreement may be terminated as follows:

A. Convenience.

The CLIENT and/or BOE may terminate this Agreement at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to RBM; or,

The Parties may terminate this Agreement at any time and for any reason upon the mutual written consent of the Parties.

B. Breach or Default.

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within thirty (30) days. If the breach or default is not satisfactorily remedied within thirty (30) days, this Agreement may, at the election of the aggrieved Party, be immediately terminated. The terminating Party shall provide prompt written notice of such termination to the other Party.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Agreement, except obligations, which as stated in this Agreement, survive termination and except that RBM shall be entitled to receive compensation for any Voting Systems, Voting Machines, Deliverables, and/or Services satisfactorily provided or performed hereunder through the date specified on the notice as the effective date of termination. All unearned compensation shall be immediately refunded by RBM to the BOE.

If the Agreement is terminated pursuant to this Section, RBM shall have no cause of action against the BOC, BOE, and/or Delaware County, Ohio, except for a cause of action for non-payment for the Voting System, Voting Machines, Deliverables, and/or Services rendered prior to the effective date of termination. The CLIENT, without limitation, retains and reserves and may exercise any available administrative, contractual, or equitable rights, legal actions, or remedies.

26. WAIVER.

The waiver of any provision or requirement of this Agreement or any occurrence of breach or default is not and shall not be interpreted as a waiver of any such subsequent occurrences. If either Party fails to

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perform an obligation(s) under this Agreement and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive any other failure(s). Waiver by either Party shall be authorized in writing and signed by an authorized representative(s) of the waiving Party. In the case of the CLIENT, any waiver shall be approved by the BOE.

27. CERTIFICATION REGARDING FINDINGS FOR RECOVERY.

RBM, 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

Printed Name

Title

28. CERTIFICATION REGARDING PERSONAL PROPERTY TAXES.

RBM, by signature of its authorized representative below, hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

Signature

Date

Printed Name

Title

29. CAMPAIGN FINANCE – COMPLIANCE WITH R.C. § 3517.13.

R.C. §§ 3517.13 I(3) and J(3) require 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 R.C. §§ 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. RBM, therefore, is required to complete the attached certificate/affidavit entitled "Certification/Affidavit in Compliance With O.R.C. Section 3517.13" ("Campaign Finance Form") Failure to complete and submit the required Campaign Finance Form with the Agreement will prohibit the CLIENT from entering, proceeding with, and/or performing the Agreement. The Campaign Finance Form is attached to this Agreement as Exhibit 3.

30. NON-DISCRIMINATION/EQUAL OPPORTUNITY/CIVIL RIGHTS

All contracts with Delaware County, Ohio must contain and all contractors with Delaware County, Ohio must agree to enter a contract containing language similar to that contained in R.C. § 125.111, which requires the following:

Every contract for or on behalf of the state or any of its political subdivisions for any purchase shall contain provisions similar to those required by R.C. § 153.59 in the case of construction contracts by which the contractor agrees to both of the following:

- A. That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;
- B. That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry.

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All contractors from whom the state or any of its political subdivisions make purchases shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in R.C. § 122.71(E)(1). Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the department of administrative services.

RBM agrees to the above and certifies that it complies with all applicable federal, state, and local laws regarding non-discrimination, equal opportunity, and/or civil rights and will not discriminate.

31. CONFLICT OF INTEREST.

RBM is unaware of and certifies that there are no conflicts of interest, either involving it or its employees, that would prohibit RBM from entering this Agreement and agrees to immediately notify the BOE when and if it becomes aware of any actual or potential conflict(s) of interest that arises during the term of the Agreement.

32. DRUG FREE ENVIRONMENT.

RBM agrees to comply with all applicable federal, state, and local laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. RBM 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.

33. COUNTY/BOE POLICIES.

RBM shall be bound by, conform to, comply with, and abide by all current applicable BOE and Delaware County, Ohio policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively "County Policy") and shall require any and all RBM Employees engaged in the performance of this License Agreement to comply with BOE and County Policy and shall be responsible for such compliance. Notwithstanding any other termination provision of this Agreement, the CLIENT may, in its sole discretion, immediately terminate this Agreement for failure of RBM or any RBM Employee to comply with BOE or County Policy. Copies of BOE and County Policy are available upon request or County Policy is available online at:

<http://www.co.delaware.oh.us/index.php/policies>.

The BOE and County reserve the authority to change, amend, replace, enact, repeal, and/or rescind BOE and/or County Policy at any time and without notice.

34. AUDIT.

RBM agrees to submit to audit and accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority. RBM agrees to reimburse the BOE the amount of any identified audit exception attributed to RBM.

35. SUBCONTRACTING.

RBM may not subcontract any portion of this Agreement, except with prior express signed written approval of the BOE. If all or any portion of this Agreement is subcontracted, any subcontractor shall be bound by all applicable terms of this Agreement and RBM shall continue to act as the prime contractor for all subcontracted work and shall assume full responsibility for the performance of the work. RBM shall remain the sole point of contact and shall be ultimately responsible for the performance of the work.

36. RESELLER

RBM/Unisyn in all respects assumes full responsibility for the Voting System, including all Voting Machines, Voting Machine Carts, Deliverables and Services, and all warranties, guarantees, and representations made by the manufacturer regarding the Voting System.

37. ASSIGNMENT.

This Agreement and/or any of the rights or responsibilities it contains may not be assigned or transferred to any other party without the prior express signed written consent of the BOE, except that RBM may assign this Agreement to a successor in interest in all its business.

38. AUTHORITY.

The CLIENT is authorized by including, but not limited to, R.C §§ 3501.11(C), 3506.02 and 3506.03 to enter this Agreement.

39. NOTICE.

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All notices which may be required by this Agreement or by operation of any rule of law shall be sent via certified mail, return receipt requested, by nationally recognized and reputable overnight courier, return receipt requested, by email, read receipt requested, or hand delivered to the following individuals at the following addresses and shall be effective on the date sent or hand delivered:

RBM

Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

Telephone: _____

Email: _____

BOE (CLIENT)

Karla Herron
Director
Delaware County Board of Elections
2079 US Hwy. 23 N.
P.O. Box 8006
Delaware, Ohio 43015

Telephone: (740) 833-2081
Email: kherron@co.delaware.oh.us

40. SURVIVAL.

All sections in this Agreement relating to payment, confidentiality, license and ownership, indemnification, infringement, insurance, access to records, records retention, maintenance, publicity, warranties, guarantees, bonding, reseller, and limitations on damages shall survive the termination of this Agreement.

41. GOVERNING LAW.

This Agreement is governed by and shall be construed and interpreted in accordance with the laws of the State of Ohio, without giving effect to the conflict of law principles thereof. The Parties irrevocably agree that venue is proper in the courts of Delaware County, Ohio or federal courts for such county.

42. FORCE MAJEURE.

The Parties shall be temporarily excused from performance under this Agreement and shall not be entitled to impose any penalty as a result of any delay in performance or interruption of payments caused by reason of war, insurrection, terrorism, riots, civil unrest, rebellions or revolutions in the United States or any nation where the obligations under this Agreement are to be executed, acts, laws, rules or regulations of any government or government agency, failure to appropriate, strike, supplier and third party failure, lockouts, or labor difficulties, automobile fuel shortages, weather, explosion, act of God, order of Court or other public authority, or any other cause beyond the reasonable control of the Parties ("Force Majeure"). A Party who has been affected by a Force Majeure shall immediately give written notice to the other Party, provide an estimate as to the duration of time the Party will be affected the Force Majeure, and shall do everything possible to expediently resume performance. Such excusal from performance or interruption of payments shall continue until such Force Majeure ceases to exist or the Agreement is terminated as provided in this Agreement.

Neither Party shall be liable under this Agreement for any loss or damage to the other Party due to delay or performance failures as a result of any Force Majeure. Notwithstanding the foregoing, both Parties shall use their best efforts to minimize the adverse consequences of any such circumstances.

43. INCORPORATION OF EXHIBITS.

The following exhibits are attached to this Agreement and by this reference incorporated into and made a part of this Agreement:

- Exhibit A – Statement of Work
- Exhibit B – Hardware Maintenance Agreement
- Exhibit C – Hardware Purchase Agreement and Exhibit C – Schedule 1

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- Exhibit D – Software License Agreement
- Exhibit 1 – Federal IRS W-9 Form
- Exhibit 2 - OPERS Form
- Exhibit 3 - Campaign Finance Form

To the extent that any terms and conditions of this Agreement conflict with those contained in the attached exhibits, the terms and conditions of this Agreement shall prevail.

44. HEADINGS.

The subject headings of the paragraphs in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

45. DRAFTING.

This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

46. PARTIES BOUND.

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

47. SERVABILITY.

If any provision hereof shall be declared invalid, such provisions shall be deemed severable from the remaining provisions of the Agreement, which shall remain in full force and effect.

48. AMENDMENTS.

No amendment, modification, and/or supplement to this Agreement shall be effective unless in a written instrument signed by the Parties.

49. COUNTERPARTS.

This Agreement may be executed in counterparts.

50. SIGNATURES.

Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

51. ENTIRE AGREEMENT.

This Agreement, together with any SOW and any other exhibits, constitutes the entire agreement and understanding between RBM and CLIENT and supersedes all prior oral or written proposals, discussions, representations and negotiations between RBM and CLIENT as they pertain to the Voting System, Voting Machines, Deliverables, and/or Services. This Agreement may not be changed, except by written amendment, modification, or supplement signed by authorized representatives of both Parties.

RBM CONSULTING, LLC

Signature

Date

Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

Gary Merrell
Commissioner

Date

Jeff Benton
Commissioner

Date

Barb Lewis

Date

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Commissioner

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky St.
Delaware, OH 43015

**BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

Ed Helvey
Board Member

Date

Peg Watkins
Board Member

Steve Cuckler
Board Member

Shawn Stevens
Board Member

Board of Elections
Delaware County, Ohio
2079 US Hwy. 23 North
Delaware, Ohio 43015

Approved as to form:

Christopher D. Betts
Acting Delaware County Prosecuting Attorney

Date

AUDITOR’S CERTIFICATION (RC 5705.41(D)):

The Delaware County Auditor hereby certifies that the funds required to meet the obligation set forth in this Agreement have been lawfully appropriated for such purpose and are in the county treasury or in the process of collection, free from any other encumbrances. The Delaware County Auditor also certifies that it has confirmed with the Ohio Auditor of State that RBM Consulting, LLC and Unisyn Voting Solutions, Inc. have no unresolved findings for recovery pending or issued against them by the State of Ohio.

George Kaitsa
Delaware County Auditor
PO# _____

EXHIBIT A
STATEMENT OF WORK

This Statement of Work (SOW) corresponds to the Master Agreement for Purchase of Voting System (“Agreement”) dated March 26, 2019 by and between RBM Consulting, LLC (“RBM”) and the Board of Commissioners, Delaware County, Ohio (“BOC”), for and on behalf of the Board of Elections, Delaware County, Ohio (“BOE”) (BOC and BOE collectively “CLIENT”) (individually “Party,” collectively “Parties”).

INCORPORATION OF AGREEMENT

By this reference, the Agreement, including all of its terms and conditions and all of its incorporated exhibits, schedules, and attachments, are incorporated into this SOW and shall apply. All terms defined in the Agreement shall have the same meanings in this SOW.

DELIVERY OF VOTING SYSTEM

Pursuant to the Contract, the Voting System, including all Deliverables, shall be fully delivered to the CLIENT within ninety (90) days after receipt of the order by RBM or on at a date mutually agreed upon by RBM and the CLIENT. The delivery location is as follows:

Delaware County Board of Elections
2079 US Hwy. 23 N.
Delaware, Ohio 43015

All shipping and shipping costs shall initially be, as stated in the Contract, solely the responsibility of RBM, subject to reimbursement by CLIENT. Risk of loss during shipping until actual delivery to CLIENT shall be solely that of RBM. Acceptance by CLIENT and transfer of title shall all be as provided in the Contract and Contract bidding documents.

SERVICES TO BE PROVIDED

CLIENT shall be provided ninety (90) days of Service to be allocated as mutually determined by RBM and

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CLIENT. RBM shall work with CLIENT to develop a specific plan for 1) delivery, installation, and implementation of the Voting System, Voting Machines, and Deliverables and 2) for providing the Services, including training and ongoing services. The RBM project manager shall work with CLIENT to make sure Services are allocated properly and efficiently to the allotted ninety days (90) of Service. The following are some broad bullet points as items that are deemed Services.

- Project Management
- Installation and Acceptance Testing
- Software and Hardware Training
- Poll worker Training
- Logic and Accuracy Testing Support
- Ballot Programming Support
- Election Day Support
- Tabulation Support

ELECTION SUPPORT SERVICES

RBM shall provide the following 1) items as part of the Voting System and 2) individuals to manage A) this Voting System project, including, but not limited to, delivery, installation, set-up, and implementation of the Voting System, Voting Machines, Voting Machine Carts, and all other Deliverables, and B) the provision of training, on-going services, and all other Services:

- **Account Manager:** The Account Manager shall be responsible for the overall service of CLIENT. A Project Manager will report directly to the Account Manager on all day-to-day activities that are taking place or are going to take place. No billing days are assigned to the Account Manager, all billing days are reconciled with the Project Manager.
- **Project Manager:** A Project Manager mutually agreed upon by the CLIENT and RBM will be assigned full Election Planning for all Elections occurring from the beginning of the Agreement until the final expiration date. All day-to-day functions of the Election cycle, Scope of Work and Business Plan, along with the daily communications with the CLIENT are the responsibility of the Project Manager. A written list of all Election Services to be performed on-site at the CLIENT’s location with the direction of the Project Manager shall be provided in advance to the CLIENT. All pricing days are listed in Exhibit C in reference to the Project Manager.
- **Hardware:** As described in attached Exhibit C – Schedule 1
- **Voting Machine Carts:** As described in attached Exhibit C – Schedule 1
- **Firmware and Software:** As described in attached Unisyn Software Agreement.

The Voting System shall be fully compliant with all applicable Ohio election laws, rules, and regulations as of the date of the Agreement and all the requirements specified by the ITB as published by the State of Ohio DAS and certification requirements of the US Election Assistance Commission (EAC) and State of Ohio as of the date of the Agreement.

All proposed uses of pricing days (i.e. 90 allotted days) shall be provided to CLIENT in advance of Services and shall be mutually agreed to in advance between CLIENT and RBM.

**EXHIBIT B
HARDWARE MAINTENANCE AGREEMENT**

This Hardware Maintenance Agreement (“Maintenance Agreement”) is entered on this March 26, 2019 by and between RBM Consulting, LLC (“RBM”) and the Board of Commissioners, Delaware County, Ohio (“BOC”), for and on behalf of the Board of Elections, Delaware County, Ohio (“BOE”) (BOC and BOE collectively “CLIENT”) (individually “Party,” collectively “Parties”).

WHEREAS, CLIENT currently possesses and utilizes, subject to future changes in models and quantities, the following Voting System hardware, including Voting Machines, Voting Machine Carts, and equipment, to conduct local, state, and federal elections in Delaware County, Ohio; and,

<u>Qty.</u>	<u>Model</u>
120-	OVO
960-	FVT-ADA voters
3-	OVCS
0-	MINI OVCS
228-	Voting Machine Carts

WHEREAS, RBM has the background, expertise, and knowledge to maintain the above listed Voting System hardware and is willing to provide CLIENT such maintenance at an agreed upon price.

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NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE.

The purpose of this Maintenance Agreement is to state the covenants and conditions under which RBM shall provide to CLIENT maintenance for all Voting System hardware, including Voting Machines and equipment, used to conduct local, state, and federal elections in Delaware County, Ohio.

2. INCORPORATION OF AGREEMENT.

This Maintenance Agreement corresponds to the Master Agreement for Purchase of Voting System ("Agreement") dated March 26, 2019 by and between RBM and CLIENT. By this reference, the Agreement, including all of its terms and conditions and all of its incorporated exhibits, schedules, and attachments, are incorporated into this Maintenance Agreement and shall apply to this Maintenance Agreement as if fully restated here. All terms defined in the Agreement shall have the same meanings in this Maintenance Agreement.

3. TERM.

The term of this Maintenance Agreement shall become effective on and be inclusive of the date the first year warranty expires, and shall continue through the date that is one (1) year from the date it became effective, unless otherwise terminated as stated in the Agreement.

4. RENEWAL.

This Agreement shall not automatically renew. However, the BOE shall have the option to annually renew the Agreement subject to the same terms and conditions provided herein. Such option shall be provided by RBM to the BOE in writing at least sixty (60) days prior to the expiration of this Agreement or a prior term and the BOE may exercise such option before the expiration of this Agreement or any prior term. As a part of any renewal, the Parties may also agree in writing, signed by both Parties, to add, amend, and/or supplement any terms and/or conditions of this Maintenance Agreement.

5. SCOPE OF SERVICES.

RBM shall provide to CLIENT maintenance for all Voting System hardware, including Voting Machines, Voting Machine Carts, equipment, and Deliverables used to conduct elections in Delaware County, Ohio as follows:

- A. Maintenance.** The scope of the maintenance provided by RBM under this Maintenance Agreement shall include the following:
- Annual preventive maintenance;
 - General cleaning and routine maintenance;
 - All necessary parts, labor and service;
 - Post-election maintenance; and,
 - To the extent necessary, repair of the Voting System hardware.
- B. Location of Maintenance.** Unless otherwise agreed by the Parties, all maintenance provided pursuant to this Maintenance Agreement shall occur, at no additional cost to CLIENT, at CLIENT's location and/or the location of the Voting Systems, as specified by CLIENT.
- C. Responsibilities of RBM.** RBM shall provide the following:
- One (1) preventive maintenance inspection for each twelve (12) months of the Maintenance Agreement.
 - Inspection and maintenance of the Voting System and shall provide CLIENT with a report of any deficiencies, including parts that need to be ordered and replaced.
 - Repair and replacement of parts as necessary.
 - Repair or replace on-site at CLIENT's location all or any portion of the Voting System, including Voting Machine Carts, that, through no fault of the CLIENT, fails, breaks, or does not fully function or operate in accordance with the manufacturer's manuals, documentation, specifications, or standards. All such services are included in the fees paid under this Maintenance Agreement and are provided at no additional fee to CLIENT. Such services shall be provided at any reasonable time mutually agreed to by the Parties, whether or not in conjunction with annual preventive maintenance. If for any reason such services cannot be performed on-site, RBM shall be fully responsible and pay for, at no additional cost to CLIENT, any depot service, including all shipping and insurance. RBM shall bear all risk of damage or loss to the unit(s) during shipment.
 - Maintain the Voting System such that the Voting System is fully functional sufficiently in advance of and for all elections.
 - Consumable parts (i.e. ribbons, batteries, roll-paper, ballots or other supplies) are not provided under this Maintenance Agreement. RBM shall not be responsible for determining the amount of such supplies needed by CLIENT. That determination is and shall be subject to a separate agreement, if any.
- D. Responsibilities of CLIENT.** CLIENT shall have the following responsibilities:

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- At reasonable times, as mutually agreed to by RBM and CLIENT and subject to any conditions imposed by CLIENT, CLIENT shall provide RBM complete and convenient access in an adequate working space to all Voting Systems covered under this Maintenance Agreement.
 - CLIENT shall allow RBM timely access to the Voting Systems covered under this Maintenance Agreement so that the Voting Systems may be properly maintained.
 - If any maintenance is provided as depot service outside of this Maintenance Agreement, as mutually agreed to by RBM and CLIENT, CLIENT shall be responsible for all costs of shipping (including insurance) to and from the RBM maintenance facility. CLIENT shall bear all risk of damage or loss to the unit(s) during shipment.
- E. **Exclusions.** The maintenance under this Maintenance Agreement shall not include replacement of ballot boxes, software, or any other type of operating system utilized with the Voting System.
- F. **Reservations.** RBM reserves the right to decline service to any unit(s) determined to be un-repairable to a maintainable condition.
- G. **Additional Services.** Support services not specified in this Maintenance Agreement may be requested in writing. Field support not included in this Maintenance Agreement is billable at \$1,475.00/day after all ninety (90) prepaid service days from Exhibit C have been expended.

All maintenance performed on the Voting System shall be fully compliant and consistent with all applicable Ohio election laws, rules, and regulations.

6. FINANCIAL AGREEMENT.

A. Fees.

In exchange for RBM satisfactorily providing, as mutually determined by the Parties, maintenance of the Voting System hardware, the CLIENT shall pay RBM the following fees:

<u>Model</u>	<u>Unit Price</u>
OVO-	\$165.00
FVT-ADA voters-	\$98.00
OVCS -	\$2825.00

Annual payment is due in total in advance each year.

For the first full year following the purchase of the Voting System the Voting System shall be fully covered by warranty. The first year warranty is included in the cost of purchase and no additional fees are due by the CLIENT for warranty services of the Voting System during the first year from date of acceptance. The above fees shall only be due after the expiration of the first year warranty and in years subsequent to the first year when this Maintenance Agreement is in effect and shall be at the above rates based on the quantity of hardware/equipment subject to maintenance.

For the first full year following the purchase of the Voting System the Voting Machine Carts shall also be fully covered by warranty. The first year warranty and all break and fix fees for the Voting Machine Carts during the warranty are included in the cost of purchase of the Voting System and no additional fees are due by the CLIENT for warranty services of the Voting Machine Carts during such first year. After the expiration of the first year warranty and in years subsequent to the first year, RBM shall provide break and fix maintenance for the Voting Machine Carts. Except as otherwise requested by the CLIENT, all break and fix maintenance shall be provided by RBM on-site during annual preventive maintenance on the Voting System. The CLIENT shall only be charged for parts and shall not be charged any labor costs for break and fix maintenance on the Voting Machine Carts performed during annual preventive maintenance. The cost of parts shall be as follows:

<u>Part</u>	<u>Unit Price</u>
Door-	\$275.00 each
Drawer -	\$250.00 each
Hinge -	\$12.00 each
Lock -	\$12.00 each
Wheels -	\$45.00 each

CLIENT shall be charged for parts and labor for any break and fix maintenance on the Voting Machine Carts performed at the request of the CLIENT and outside of annual preventive maintenance. For break and fix maintenance performed outside of annual preventive maintenance, RBM shall provide parts at the above rates and labor at the rate in Sec. 5(G) of this Maintenance Agreement - \$1,475.00/day or \$184.38/hour, whichever is less.

If the term of this Maintenance Agreement is less than five (5) years and the Parties subsequently agree to an extension of the term of this Maintenance Agreement or another maintenance agreement within the five (5) year period after the effective date of this Maintenance Agreement, RBM agrees and guarantees to offer and contract with the CLIENT for maintenance at the same labor and per unit rates as in this

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Maintenance Agreement.

B. No Retainer on Additional Fees Paid Pursuant to Maintenance Agreement

Any additional fees, beyond the Total System Cost, paid by the CLIENT pursuant to this Maintenance Agreement are not subject to the retainer in Sec. 6(B) of the Agreement.

C. Maximum Payment.

The first full year warranty is included in the cost of purchase of the Voting System and, as such, is included in the maximum amount stated in the Agreement. The maximum amount payable pursuant to this Maintenance Agreement, following the expiration of the warranty, is \$123,000. This is the estimated cost of the Maintenance Agreement.

D. Taxes.

Incorporated from Agreement as if fully restated here.

E. Competitive Bidding Not Required/ Certification of Compliance with State Contract.

Incorporated from Agreement as if fully restated here.

F. Travel Expenses.

Incorporated from Agreement as if fully restated here.

G. Invoice and Payment.

The annual fee shall be invoiced each year on the anniversary of first payment. All other invoice and payment requirements are incorporated from Agreement as if fully restated here.

7. WARRANTY / MANUFACTURER’S WARRANTIES.

All warranty terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this Maintenance Agreement and apply to this Maintenance Agreement as if fully restated here.

Under this Maintenance Agreement, RBM shall install or replace parts provided that its doing so will not impact any factory or manufacturer’s warranty. If RBM encounters a maintenance issue that would impact any factory or manufacturer’s warranty, RBM shall bring such issue to the attention of the BOE and, pursuant to the Agreement, at no cost to CLIENT, assist CLIENT, use its best efforts, and fully cooperate with CLIENT with making, pursuing, and/or litigating to conclusion any claim under any such factory and/or manufacturer warranty.

**8. INDEMNITY / INFRINGEMENT / INSURANCE /
WORKER’S COMPENSATION INSURANCE.**

All indemnity, infringement, insurance, and worker’s compensation terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this Maintenance Agreement and shall apply to this Maintenance Agreement as if fully restated here.

9. TERMINATION.

Incorporated from Agreement as if fully restated here.

10. ALL OTHER TERMS AND CONDITIONS OF AGREEMENT AND CONTRACT.

All terms and conditions of the Agreement, Contract, and Contract bid documents not specifically referenced in this Maintenance Agreement and not in conflict with the terms and conditions of this Maintenance Agreement are incorporated into and shall apply to this Maintenance Agreement as if fully restated here.

11. ENTIRE AGREEMENT.

This Maintenance Agreement constitutes the entire agreement and understanding between RBM and CLIENT regarding maintenance of the Voting System hardware and supersedes all prior oral or written proposals, discussions, representations and negotiations between RBM and CLIENT as they pertain to maintenance of CLIENT’s Voting System hardware. This Agreement may not be changed, except by written amendment, modification, or supplement signed by authorized representatives of both Parties.

RBM CONSULTING, LLC

Signature

Date

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Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

(SIGNATURES CONTINUED ON FOLLOWING PAGE)

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

Gary Merrell
Commissioner
Date

Jeff Benton
Commissioner
Date

Barb Lewis
Commissioner
Date

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky St.
Delaware, OH 43015

**BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

Ed Helvey
Board Member
Date

Peg Watkins
Board Member

Steve Cuckler
Board Member

Shawn Stevens
Board Member

Board of Elections
Delaware County, Ohio
2079 US Hwy. 23 North
Delaware, Ohio 43015

Approved as to form:

Christopher D. Betts
Acting Delaware County Prosecuting Attorney
Date

AUDITOR'S CERTIFICATION (RC 5705.41(D)):

The Delaware County Auditor hereby certifies that the funds required to meet the obligation set forth in this Maintenance Agreement have been lawfully appropriated for such purpose and are in the county treasury or in the process of collection, free from any other encumbrances. The Delaware County Auditor also certifies that it has confirmed with the Ohio Auditor of State that RBM Consulting, LLC and Unisyn Voting Solutions, Inc. have no unresolved findings for recovery pending or issued against them by the State of Ohio.

George Kaitsa
Delaware County Auditor

PO# _____

EXHIBIT C
HARDWARE PURCHASE AGREEMENT

This Hardware Purchase Agreement ("Purchase Agreement") is entered on this March 26, 2019 by and between RBM Consulting, LLC ("RBM") and the Board of Commissioners, Delaware County, Ohio ("BOC"), for and on behalf of the Board of Elections, Delaware County, Ohio ("BOE") (BOC and BOE collectively "CLIENT") (individually "Party," collectively "Parties").

WHEREAS, CLIENT is in need of and desires to purchase Voting System hardware, including Voting Machines,

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tabulation hardware, and other related equipment and Services, to conduct local, state, and federal elections in Delaware County, Ohio; and,

WHEREAS, RBM is willing to sell CLIENT such Voting System at an agreed upon price.

1. PURPOSE.

The purpose of this Purchase Agreement is for RBM to sell to CLIENT and CLIENT to purchase from RBM OpenElect Voting System hardware, including Voting Machines, tabulation hardware, and other related equipment and Services, to conduct local, state, and federal elections in Delaware County, Ohio.

2. INCORPORATION OF AGREEMENT.

This Purchase Agreement corresponds to the Master Agreement for Purchase of Voting System (“Agreement”) dated March 26, 2019 by and between RBM and CLIENT. By this reference, the Agreement, including all of its terms and conditions and all of its incorporated exhibits, schedules, and attachments, are incorporated into this Purchase Agreement and shall apply to this Purchase Agreement as if fully restated here. All terms defined in the Agreement shall have the same meanings in this Purchase Agreement.

3. PURCHASE.

RBM shall sell to CLIENT and CLIENT shall purchase from RBM the Voting Machine Carts and the OpenElect Voting System hardware, including Voting Machines, tabulation hardware, and other related equipment and Services as listed in attached Exhibit C-Schedule 1. The OpenElect Voting System hardware is manufactured by UNISYN Voting Solutions, Inc. (“Supplier”).

All OpenElect Voting System hardware, including Voting Machines, Voting Machine Carts, tabulation hardware, Deliverables, and other related equipment and Services shall be fully compliant with all applicable Ohio election laws, rules, and regulations as of the date of the Agreement and all the requirements specified by the ITB as published by the State of Ohio DAS and certification requirements of the US Election Assistance Commission (EAC) and State of Ohio as of the date of the Agreement..

As a part of the purchase, CLIENT shall sell to RBM at fair market value as determined by the Delaware County Auditor all old voting equipment owned by CLIENT and RBM shall accept the same and credit to CLIENT such fair market value as trade-in. RBM shall fully take and remove all such old voting equipment from CLIENT’s premises.

4. FINANCIAL AGREEMENT.

A. Fees.

In exchange for RBM satisfactorily providing, as mutually determined by the Parties, the OpenElect Voting System hardware, including Voting Machine Carts, Voting Machines, tabulation hardware, and other related equipment and Services as listed in attached Exhibit C -Schedule 1, the CLIENT and State shall pay RBM their respective portions of the Total System Cost set forth in Exhibit C -Schedule 1. The portion of the Total System Cost paid by the CLIENT shall be subject to retainer per Sec. 6(B) of the Agreement, which section is incorporated from the Agreement as if fully restated here.

Consistent with Ohio Am. Sub. SB 135, 132nd G.A. and SOS Advisory 2018-04, the SOS shall coordinate and make payment for the State-funded parts of the Voting System and Services directly to RBM. The CLIENT shall be responsible for payment for those parts of the Voting System and Services that are not State-funded or that exceed the amount of the County’s allocation of State funds. Under no circumstances shall the CLIENT be held liable for payment of the State portion of the fees.

B. Maximum Payment.

The maximum amount payable pursuant to this Purchase Agreement is included in the maximum amount stated in the Agreement.

C. Taxes.

Incorporated from Agreement as if fully restated here.

D. Competitive Bidding Not Required/ Certification of Compliance with State Contract.

Incorporated from Agreement as if fully restated here.

E. Travel Expenses.

Incorporated from Agreement as if fully restated here.

F. Invoice and Payment.

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Incorporated from Agreement as if fully restated here.

5. DELIVERY/ SHIPPING/ RISK OF LOSS/ TITLE.

Delivery shall be within the time and to the location stated in Exhibit A. All shipping and shipping costs shall initially be, as stated in the Contract, solely the responsibility of RBM, subject to reimbursement by CLIENT. Risk of loss during shipping until actual delivery to CLIENT shall be solely that of RBM. Acceptance by CLIENT and transfer of title shall all be as provided in this Purchase Agreement, the Contract, and Contract bidding documents.

RBM and/or the Supplier shall deliver the Voting System and all Deliverables to CLIENT free and clear of all liens and encumbrances of any kind and shall not place, attempt to place, or allow to be placed upon the Voting System or any Deliverables any liens or encumbrances of any kind between delivery and transfer of title.

6. ACCEPTANCE.

Acceptance by CLIENT shall all be as stated in the Contract. Unless rejected or returned by CLIENT as provided in this Purchase Agreement, all Deliverables shall be deemed accepted upon the first to occur of 1) notification of acceptance by CLIENT to RBM within thirty (30) days of receipt of the Deliverables by CLIENT or 2) the expiration of thirty (30) days after receipt of the Deliverables by CLIENT.

7. RETURN OF DEFECTIVE ITEMS.

Prior to completion of the thirty (30) day period of Acceptance Testing as set forth in this Purchase Agreement, CLIENT may, at no cost to CLIENT, return any Deliverables or items that are defective and are not in conformance with Supplier's specifications, Ohio election laws, rules, and regulations as of the date of the Agreement and/or the requirements specified by the ITB as published by the State of Ohio DAS and certification requirements of the US Election Assistance Commission (EAC) and State of Ohio as of the date of the Agreement. RBM shall be responsible for the removal of the returned items and/or cost of returns, including shipping and insurance. After the thirty (30) day Acceptance Testing period, except for 1) latent defects, fraud, or such gross mistakes as amount to fraud or 2) defective Deliverables or items covered by the Supplier's warranty, all Deliverables are not subject to any additional rights of return. Except as stated herein, any defects or deficiencies discovered after acceptance shall be repaired or replaced per Supplier's warranty.

8. ACCEPTANCE TESTING.

Testing of each piece or component of the Voting System hardware shall be performed by Supplier at the Supplier's or manufacturer's facility prior to delivery to CLIENT of the Voting System hardware. The purpose of such testing is to ensure that the Voting System hardware is in good working order and complies with the manufacturer's and OpenElect system documentation and the terms of this Purchase Agreement, the Contract, and all Contract bidding documents.

Upon receipt, RBM with aid from CLIENT shall conduct acceptance testing on the Voting System hardware and all equipment and other items. The acceptance testing process should be to assure that the Voting System operates according to the supplied manufacturer's and OpenElect system documentation and the terms of this Purchase Agreement, the Contract, and all Contract bidding documents. Testing begins when RBM notifies CLIENT that the Voting System hardware and other items have been delivered. The CLIENT and RBM shall have up to thirty (30) calendar days after delivery to complete acceptance testing and, within that time, CLIENT shall accept or reject the delivered products.

9. RESTRICTIONS PRIOR TO PAYMENT/PASSING OF TITLE.

A. CLIENT agrees until title passes to CLIENT/State:

- The Voting System shall remain RBM's personal property and shall not be attached to or become part of any realty;
- The Voting System shall be installed and used and shall not be removed from CLIENT's place of business without the prior written consent of RBM; and
- CLIENT and/or State shall not sell, pledge, mortgage, assign, transfer, lease, sublet, loan, license, part with possession of, or encumber the Deliverables or any part thereof or permit or suffer or attempt to do any of the acts aforesaid without the prior written consent of RBM.

B. CLIENT agrees that until payment in-full of the Total System Cost is made to RBM:

- To comply with all laws relating in any way to the use, operation, or maintenance of the Deliverables.
- That while the Voting System is in the possession of the CLIENT, to provide proof of adequate insurance to cover the loss of the Voting System.
- To grant RBM access to inspect the Deliverables at any reasonable time during normal business hours as agreed to in advance by the Parties and subject to any conditions imposed by CLIENT.

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- That CLIENT shall not make any alterations, additions, modifications, or improvements to the Voting System without the prior written consent of RBM.

10. WARRANTY.

All warranty terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this Purchase Agreement and apply to this Purchase Agreement as if fully restated here.

11. R.C. § 3506.10(P) GUARANTEE AND BOND.

All R.C. § 3506.10(P) guarantee and bonding terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this Purchase Agreement and shall apply to this Purchase Agreement as if fully restated here.

**12. INDEMNITY / INFRINGEMENT / INSURANCE /
WORKER’S COMPENSATION INSURANCE.**

All indemnity, infringement, insurance, and worker’s compensation terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this Purchase Agreement and shall apply to this Purchase Agreement as if fully restated here.

13. TERMINATION.

Incorporated from Agreement as if fully restated here.

14. ALL OTHER TERMS AND CONDITIONS OF AGREEMENT AND CONTRACT.

All terms and conditions of the Agreement, Contract, and Contract bid documents not specifically referenced in this Purchase Agreement and not in conflict with the terms and conditions of this Purchase Agreement are incorporated into and shall apply to this Purchase Agreement as if fully restated here.

15. ENTIRE AGREEMENT.

This Purchase Agreement constitutes the entire agreement and understanding between RBM and CLIENT regarding purchase of the Voting System hardware and supersedes all prior oral or written proposals, discussions, representations and negotiations between RBM and CLIENT as they pertain to the purchase of the Voting System hardware. This Agreement may not be changed, except by written amendment, modification, or supplement signed by authorized representatives of both Parties.

RBM CONSULTING, LLC

_____ Signature	_____ Date
_____ Printed Name	
_____ Title	

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

_____ Gary Merrell Commissioner	_____ Date
_____ Jeff Benton Commissioner	_____ Date
_____ Barb Lewis Commissioner	_____ Date

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky St.
Delaware, OH 43015

**BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

_____ Ed Helvey Board Member	_____ Date
------------------------------------	---------------

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Peg Watkins
Board Member

Steve Cuckler
Board Member

Shawn Stevens
Board Member

Board of Elections
Delaware County, Ohio
2079 US Hwy. 23 North
Delaware, Ohio 43015

Approved as to form:

Christopher D. Betts
Acting Delaware County Prosecuting Attorney

Date

**NO ADDITIONAL COUNTY AUDITOR’S CERTIFICATION
REQUIRED (RC 5705.41(D)):**

The availability of funds required to meet the obligation set forth in this Purchase Agreement was certified by the Auditor in the Auditor’s Certificate attached to the Agreement. No separate Auditor’s Certification is required for this Purchase Agreement.

EXHIBIT C - SCHEDULE 1

Vendor: UNISYN VOTING - RBM CONSULTING

DELAWARE COUNTY, OHIO

	Quantity	Unit Cost	Extended Cost
OVO-OPTICAL SCAN TABULATOR WITH BALLOT BOX AND FIRMWARE	120	\$ 4,625	\$ 555,000
FREEDOMVOTE WITH FIRMWARE AND CASE	682	\$ 2,605	\$ 1,776,610
FREEDOMVOTE WITH FIRMWARE-CASE AND ADA PAD	278	\$ 2,705	\$ 751,990
OVCS CENTRAL SCANNER WITH SOFTWARE-FIRMWARE-DELL LAPTOP	3	\$ 37,800	\$ 113,400
OCS SOFTWARE SUITE MODULES INCLUDED-BALLOT LAYOUT MGR.(BLM); ELECTION MGR.(EM); ELECTION SERVER(ES); TABULATOR CLIENT (TC); TABULATOR(T); AUDITOR; UNISYN REPORTS – ANNUAL FEE	1	\$ 42,210	\$ 42,210
SERVER FOR ELECTION MGMT. AND TABULATION-DELL	2	\$ 7,500	\$ 15,000
DELL DESKTOP – NETWORK	2	\$ 3,100	\$ 6,200
MY SQL DATA BASE	1	\$ 1,200	\$ 1,200
VOTING DEPLOYMENT INSTALLATION AND ACCEPTANCE TEST (OUT OF 90 SERVICE DAYS)	40 days	\$ 1,475	\$ 59,000
PRE-ELECTION SUPPORT (OUT OF 90 SERVICE DAYS)	30 days	\$ 1,475	\$ 44,250
LOGIC AND ACCURCY (OUT OF 90 SERVICE DAYS)	20 days	\$ 1,475	\$ 29,500
VOTING AND TRANSPORT CART-FOUR VOTE STATIONS	228	\$ 2,599	\$ 592,572
ADDITIONAL TRANSPORT MEDIA	150	\$ 92	\$ 13,800
VOTING BOOTHS	50	\$ 220	\$ 11,000
SHIPPING (Estimate. Billed at actual cost. Cost not to exceed estimate.)			\$ 50,000.00
Subtotal – “State-Funded” Items (Table A of Bid Price Page)			\$ 1,974,724.83
Subtotal – “Non-State-Funded” Items (Table A of Bid Price Page)			\$ 2,087,007.17
Total System Cost			\$ 4,061,732.00

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**NOTE: SHIPPING COST IS AN ESTIMATE AND WILL BE BILLED AT ACTUAL COST, BUT SHALL NOT EXCEED ESTIMATE.
THE WARRANTIES AS STATED IN THE CONTRACT, AGREEMENT, AND THE AGREEMENT EXHIBITS ARE INCLUDED.**

**EXHIBIT D
UNISYN VOTING SOLUTIONS, INC.
SOFTWARE LICENSE AGREEMENT**

This Software License Agreement (“License Agreement”) is entered on this March 26, 2019 by and between Unisyn Voting Solutions, Inc. (“Unisyn”), whose principal place of business is located at 2310 Cousteau Ct., Vista CA 92081-8346, and the Board of Commissioners, Delaware County, Ohio (“BOC”), whose principal place of business is located at 101 N. Sandusky St., Delaware, Ohio 43015, for and on behalf of the Board of Elections, Delaware County, Ohio (“BOE”), whose principal place of business is located at 2079 US Hwy. 23 N., P.O. Box 8006, Delaware, Ohio 43015 (BOC and BOE collectively “Customer”) (individually “Party,” collectively “Parties”).

This License Agreement corresponds to the Master Agreement for Purchase of Voting System (“Agreement”) dated March 26, 2019 by and between RBM Consulting, LLC (“RBM”) and the BOC, for and on behalf of the BOE. All terms defined in the Agreement shall have the same meanings in this License Agreement.

In consideration of the promises set forth herein, and pursuant to the terms and conditions set forth herein, Unisyn herein, grants to Customer the number and type of licenses (“Licenses”) indicated below for the software identified below (“Unisyn OpenElect Software”):

<u>Unisyn OpenElect Software</u>	<u>Type of License</u>	<u>Number of Licenses</u>	<u>Initial Charge (per unit)</u>	<u>Annual License Fee (per unit)</u>
OVO Firmware	Single Device	120	Incl.	\$90.00
FVT Firmware	Precinct Based License	159	Incl.	\$60.00
OVCS Firmware	Single Device	3	Incl.	\$550.00
MINI Firmware	Single Device	0		\$550.00
Total Annual Firmware				\$21,990.
OCS modules above				
Ballot Layout Manager	Single Device			
Election Manager	Single Device			
Election Server	1-5 Devices			
Software Server	1-5 Devices			
Tabulator Modules				
Tabulator Client	1-5 Devices			
Tabulator	Single Device			
Tabulator Report	Single Device			
Unisyn Reports	Single Device			
Auditor	1-5 Devices			
OVCS Software License-Annual Fee	Single Device			\$42,210.

Unisyn shall also furnish the software maintenance services described herein for the Unisyn OpenElect Software licensed hereunder during the term of this License Agreement. This License Agreement contains the terms and conditions applicable to each individual License granted herein.

All Unisyn OpenElect Software and firmware shall be fully compliant with all applicable Ohio election laws, rules, and regulations as of the date of this License Agreement and all requirements specified by the ITB as published by the State of Ohio DAS and certification requirements of the US Election Assistance Commission (EAC) and State

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of Ohio as of the date of this Agreement.

1. License.

1.1. Unisyn OpenElect Software.

Upon payment of the initial license fee for Unisyn OpenElect Software (“Initial Charge”), and on the payment of each annual license fee (“Annual License Fee”) thereafter, Unisyn grants to Customer, and the Customer accepts, a nonexclusive, nontransferable License to use one copy of the Unisyn OpenElect Software provided by Unisyn to Customer (“Original”) to conduct government related elections and related activities within the Customer’s jurisdiction, in compliance with the terms and conditions set forth in this License Agreement. As used in this License Agreement, Customer shall include Customer’s board members, directors, officers, officials, employees, representatives, agents, volunteers, and contractors, provided such persons agree to comply with the provisions hereof.

1.2. Associated Third Party Software.

The Unisyn OpenElect Software is integrated with, or is accompanied by, software owned by various third parties (“Third Party Software”). Such Third Party Software is necessary for the operation of the hardware, Unisyn OpenElect Software and/or peripheral devices.

2. Term of License/Renewal

The License for each item of Unisyn OpenElect Software shall begin on the date Unisyn ships the Unisyn OpenElect Software to Customer and shall continue until the next anniversary (“Anniversary”) of the latter of (a) Delivery of the Unisyn OpenElect Software or (b) Acceptance, if Acceptance is required by a related Agreement. Thereafter, for a cumulative period not to exceed twenty (20) years, Customer may renew this License Agreement, annually, for successive one year terms, by paying the Annual License Fee. Regardless of the length of time the Unisyn OpenElect Software is licensed, Customer shall not acquire ownership of the Unisyn OpenElect Software, associated Third Party Software, or any rights other than those expressly granted to Customer in this License Agreement.

3. Additional Functions and Enhancements

RBM and/or Unisyn shall add all nonexistent or repair and/or fix all existing, but dysfunctional or inoperable, functions and enhancements, included on the list attached as Exhibit 4, to the Unisyn OpenElect Software and firmware and the Voting System. Such functions and enhancements shall be provided to the Customer at no additional cost (\$0.00) and be fully certified and functional for the Customer, as mutually determined by the Parties, by the respective dates that correspond to each listed function and enhancement.

4. Financial Agreement

4.1. **Fees.** In exchange for the Licenses, Customer and State shall pay their respective portions of the Annual License Fee to Unisyn or RBM to pay Unisyn. Customer and State shall not be responsible for payment of Unisyn if payment of the Initial Charge or Annual License Fee is made to RBM to pay Unisyn.

The Initial Charge includes any Annual License Fee Customer and State are required to pay for the first year that Customer uses the Unisyn OpenElect Software licensed hereunder and no additional fee is due by Customer or State for the License during the first year.

The portion of the Initial Charge paid by the Customer as a part of the Total System Cost shall be subject to retainer per Sec. 6(B) of the Agreement, which section is incorporated from the Agreement as if fully restated here.

Consistent with Ohio Am. Sub. SB 135, 132nd G.A. and SOS Advisory 2018-04, the SOS shall coordinate and make payment for the State-funded parts of the Licenses directly to Unisyn or RBM to pay Unisyn. The Customer shall be responsible for payment for those parts of the Licenses that are not State-funded or that exceed the amount of the County’s allocation of State funds. Under no circumstances shall the Customer be held liable for payment of the State portion of the fees.

Unisyn reserves the right to adjust Annual License Fees by providing sixty (60) days advance notice of any increase. Any increase of the Annual License Fee shall not exceed 0% for the first five (5) years and shall not exceed 5% over the amount of any prior year’s Annual License Fee for any year after the first five (5) years. If Customer does not wish to pay such increase Customer may terminate the License Agreement by providing written notice to Unisyn and discontinuing use of the Unisyn OpenElect Software and returning the Original and all copies (“Copies”) to Unisyn, along with the original and all copies of any associated user

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documentation (“User Documentation”). Customer shall immediately destroy all Copies of the Unisyn OpenElect Software remaining in electronic or other memory.

- 4.2. **Maximum Payment.** The maximum amount payable pursuant to this License Agreement is included in the maximum amount stated in the Agreement.
- 4.3. **Taxes.** The State, BOC, BOE, and Delaware County, Ohio and all boards, departments, offices, and agencies thereof are exempt from all federal, state, and local taxes. As such, the State and Customer shall not be invoiced for and shall not pay any taxes. A tax exempt certificate shall be provided to Unisyn upon request.
- 4.4. **Invoice and Payment.** To receive payment, Unisyn shall:
- Submit to the BOE a completed federal IRS W-9 form (Agreement Exhibit 1).
 - Submit to the BOE a proper detailed invoice. A proper invoice is defined as an invoice free from defects, discrepancies, errors, and/or other improprieties and shall include, but is not limited to including, the following:
 - Invoice number;
 - Purchase order number;
 - Unisyn's full name, address, telephone number, and facsimile number;
 - Name of a contact person with Unisyn in charge of billing, including a telephone number and email address for such contact person;
 - Unisyn's federal employer identification number;
 - BOE's full name and address;
 - Detail, including, but not limited to, the following:
 - A description of the License provided.
 - Term/dates of the License.
 - Delivery location for Deliverables and/or Services;
 - Itemized costs, including, but not limited to, rates, applicable discounts, the formula/means of arriving at the total amount owed, and total owed.

Unisyn shall invoice the BOE for the Annual License Fee at least thirty (30) days in advance of the Anniversary. The BOE shall pay such invoice on or before the Anniversary.

Defective invoices shall be returned to Unisyn 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. The License shall not be terminated as a result of the BOE's receipt of a defective invoice, unless the BOE fails to pay upon receipt of a corrected proper invoice and then only in accordance with the termination provisions of this License Agreement.

The date payment is issued shall be deemed the date payment is made.

If the Licenses granted pursuant to this License Agreement have multiple Anniversaries, or if Unisyn and Customer have entered into one or more related Warranty Agreements with differing Anniversaries, Unisyn may consolidate all of the Anniversaries. Unisyn shall do so by changing the Anniversary of one or more Licenses or Warranties so that it coincides with the Anniversaries of other Licenses or Warranties, which Anniversaries occur before the expiration of the next term of any License for which the Anniversary is being changed. Unisyn shall prorate the Annual License Fee for the resulting shortened term.

- 4.5. **Competitive Bidding Not Required/ Certification of Compliance with State Contract.**
- Incorporated from Agreement as if fully restated here.
- 4.6. **Travel Expenses.** In no event shall Customer be liable for any travel, lodging, meal, per diem and/or other expenses associated with travel incurred by Unisyn, its board members, officers, officials, directors, employees, agents, volunteers, and/or contractors.

5. Customer's Use of Unisyn OpenElect Software

Each License is either a 1-5 Device License, or a Single Device License, as identified below. Customer's use of the associated Unisyn OpenElect Software is governed by the applicable grant below:

5.1. 1-5 Device License:

Unisyn grants Customer the right to use the Original of the Unisyn OpenElect Software licensed hereunder for as long as this License Agreement remains in effect. Customer may install an image of the Original (“Copy” or “Image Copy”) of the licensed Unisyn OpenElect Software into the memory of 1 to 5 computers as are reasonably necessary for the conduct of elections or related activities within the Customer's jurisdiction, so long as each computer is owned by or leased to Customer. Customer shall make no other copies of the Unisyn OpenElect Software,

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except for one archival copy (“Copy” or “Archival Copy”), which may be used for recovery purposes only. Any Copy of the Unisyn OpenElect Software made by Customer shall belong to Unisyn. Customer shall not act as a Ballot Layout Service to third parties, or make the Unisyn OpenElect Software available to third parties.

5.2. Single Device License:

Customer is granted the right to use each Original of the Unisyn OpenElect Software licensed hereunder for as long as this License Agreement remains in effect. Customer may install one image of each Original (“Copy” or “Image Copy”) into the memory of a single election hardware device owned by or leased to Customer, which Unisyn has provided for or approved in writing for use with such Unisyn OpenElect Software. Customer shall make no other copies of the Software except for one archival copy (“Copy” or “Archival Copy”), which may be used for recovery purposes only. Any Copy of the Unisyn OpenElect Software made by Customer shall belong to Unisyn. Customer shall not act as a Ballot Layout Service to third parties, nor shall it make the Unisyn OpenElect Software available to third parties.

5.3. Some of the Third Party Software license agreements may additionally restrict the use of the associated Third Party Software. Such restrictions include, but are not limited to, placing limits on the number of copies that may be made. Customer is responsible for ensuring that its use of such Third Party Software complies with the terms and conditions of any applicable license agreements.

5.4. Customer may not use, copy, modify, transfer, rent, reverse engineer, decompile, disassemble, translate, create derivative works based upon, or perform any other similar process on any Unisyn OpenElect Software, portion thereof, or documentation, or Third Party Software provided by Unisyn, except as expressly authorized in this License Agreement. Customer shall not remove, alter, obscure, modify, or obliterate any copyright, trademark, proprietary or other protective notice, or serial number on any of the system components. Customer agrees not to act in contravention of any of Unisyn’s rights or to assist others in doing so.

5.5. Customer shall not use the Unisyn OpenElect Software on hardware other than the hardware provided, or approved in writing, by Unisyn. Customer shall not make any changes to hardware which may affect Unisyn OpenElect Software performance, without the prior written consent of Unisyn, including but not limited to, changes to existing hardware configurations, network configurations, or terminal and printer characteristics.

5.6. Customer agrees to permit representatives of Unisyn to inspect the location and the computer hardware upon which the Unisyn OpenElect Software is being used or kept, Customer’s records of use of the Unisyn OpenElect Software, and any Copies of the Unisyn OpenElect Software. Such inspections shall occur at reasonable times during normal business hours as agreed to in advance by the Parties and subject to any conditions imposed by Customer. In addition, Unisyn will use all reasonable efforts to minimize disruption to the normal business activities of Customer.

6. Maintenance

6.1. Unisyn shall maintain Customer's Unisyn OpenElect Software such that it operates in conformity with the current User Documentation for the installed version of such Unisyn OpenElect Software, including all error corrections or changes provided pursuant to Subparagraph 6.1 and Upgrades provided pursuant to Subparagraph 6.2. Unisyn shall use its best efforts to correct any reproducible error. Suspected error conditions will be investigated and corrected by Unisyn personnel at the Unisyn office to the extent possible.

6.2. If a problem cannot be resolved using remote diagnostics, with the Customer's authorization, Unisyn will send a specialist to the Customer's site under the following terms:

6.2.1. If the problem lies solely with Unisyn’s Software, Unisyn is responsible for all expenses associated with the resolution of the problem, provided, however, that Customer has incorporated all error corrections or changes to the Unisyn OpenElect Software within thirty (30) days of receipt of the same from Unisyn, and

6.2.2. If the problem is Customer generated, including by the failure to incorporate all error corrections or changes in a timely manner, the Customer is responsible for all fees and expenses at Unisyn's then-current consulting service rate. Customer generated problems include, but are not limited to, problems that arise from the failure of hardware or software that is not licensed or under warranty from Unisyn, installation of the Unisyn OpenElect Software on hardware that was not provided or approved by Unisyn, or improper use of the Unisyn OpenElect Software or the hardware upon which it is installed.

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- 6.3. As is reasonably necessary for Unisyn to perform maintenance, Customer shall:
- 6.3.1. Provide Unisyn personnel with the work space necessary for the proper execution of its service obligations;
 - 6.3.2. Be responsible for maintaining the computer hardware, communications equipment, cabling, and all other hardware equipment;
 - 6.3.3. Make available computer time and assist in the testing and maintenance of software; and
 - 6.3.4. Make available all necessary supplies.

7. Changes to Unisyn OpenElect Software

- 7.1. Unisyn may provide Customer with unsolicited error corrections or changes to the Unisyn OpenElect Software that Unisyn determines from time to time are necessary for proper operation of the Unisyn OpenElect Software or the system with which the Unisyn OpenElect Software was provided or is a part ("System"). Customer shall incorporate these corrections or changes within thirty (30) days of receipt from Unisyn, unless Customer is granted permission in writing to delay the incorporation of such corrections or changes. Such error corrections or changes shall be treated as part of the Original of the Unisyn OpenElect Software for purposes of this License Agreement.
- 7.2. Unisyn may, from time to time, release Unisyn OpenElect Software improvements ("Upgrades"). Upgrades shall mean any added functionality or change to functionality of programs and materials not included in the Unisyn OpenElect Software at the time of the execution of this License Agreement. Upgrades do not include later released versions of the Unisyn OpenElect Software with a higher version number, which generally provide significantly increased functionality or introduce new technology. During the term of this License Agreement Customer is entitled to receive one copy of each Upgrade, including any associated documentation and installation procedures. Upgrades shall be treated as part of the Original of the Unisyn OpenElect Software for purposes of this License Agreement, whether or not installed by Customer. Specific training courses for Upgrades are available and are billable at Unisyn's standard published rates.
- 7.3. Unisyn shall at no cost to Customer timely update the Unisyn OpenElect Software and firmware so at all times said software and firmware is compliant with current, amended, and/or changed Ohio law or any other applicable federal, state or local laws.
- 7.4. Customer may, from time to time, request modifications of the Unisyn OpenElect Software. If, in its discretion, Unisyn chooses to modify the Unisyn OpenElect Software, all such modifications shall be owned exclusively by Unisyn, and shall be treated as part of the Original Unisyn OpenElect Software for purposes of this License Agreement. Customer shall not modify, or permit a third party to modify, any Unisyn OpenElect Software, unless it is authorized by an amendment to this License Agreement. Any such modifications will be billed to Customer at Unisyn's standard published rates.

8. Warranty

- 8.1. Unisyn warrants that it is the owner of Unisyn OpenElect Software or has the right to permit Customer to use the Unisyn OpenElect Software in compliance with the express terms of this License Agreement. Unisyn also warrants that when used with the hardware and software configuration purchased from or approved by Unisyn, the Unisyn OpenElect Software will perform free of software defects that would prevent the System from operating substantially in the manner described in the User Documentation at the time of shipment, and during any term of this License Agreement.
- 8.2. To the extent permitted by the owner of any Third Party Software Unisyn may provide, Unisyn shall pass through to the Customer all warranties provided to Unisyn. Otherwise, Third Party Software is delivered as is and without warranty.
- 8.3. No other licenses of a type different than the type granted pursuant to this License Agreement or other Third-Party Software or other licenses are or shall be required to operate the Voting System and, if it is later determined such additional licenses are required, RBM and Unisyn shall jointly and severally bear all costs of such other and additional licenses.
- 8.4. All warranty terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this License Agreement and apply to this License Agreement as if fully restated here.

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- 8.5. Unisyn makes no other warranties, expressed or implied, of any kind or nature whatsoever concerning the software, the documentation, or any services provided hereunder.
- 8.6. Unisyn does not warrant uninterrupted operation or that the software will be error free. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

9. Intellectual Property

- 9.1. Unisyn warrants that the Unisyn OpenElect Software does not infringe upon any United States patent, copyright, or trademark rights of any third party.
- 9.2. If notified promptly in writing of any action brought against Customer alleging that Customer's use of the Unisyn OpenElect Software infringes upon a United States patent or copyright or trademark, Unisyn will defend such action at its expense and will pay the costs and damages awarded against Customer in such action, provided that Unisyn shall have sole control of the defense of any such action, and all negotiations for its settlement or compromise.
- 9.3. If the Unisyn OpenElect Software, or any portion thereof, is or is likely to become the subject of a claim or infringement, or if a final injunction is obtained against Customer's use of the Unisyn OpenElect Software, Unisyn will, at its option and at its expense, either
- 9.3.1. Procure for Customer the right to continue using the Unisyn OpenElect Software,
- 9.3.2. Replace or modify the same such that, in the sole opinion of Customer, the replacement or modification serves the same purpose, performs the same functions, and is of the same quality as the Original Unisyn OpenElect Software, or
- 9.3.3. Refund to Customer the entire cost of this License Agreement.
- 9.4. To the fullest extent of the law and without limitation, Unisyn agrees to and shall indemnify and hold free and harmless the BOC, BOE, Delaware County, Ohio, and all of their respective boards, officers, officials, directors, employees, volunteers, agents, and representatives (collectively "Indemnified Parties") from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney's fees, arising out of or resulting from any actual or alleged infringement of any right to use or possess the Unisyn OpenElect Software. Unisyn agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that Unisyn 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, fines, penalties, fees, and expenses. Unisyn further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that Unisyn shall pay, settle, compromise and procure the discharge of any and all judgments damages, losses, costs, fines, fees, penalties, and expenses, including, but not limited to attorney's fees.

10. Indemnity/Insurance/Worker's Compensation Insurance

All indemnity, insurance, and worker's compensation terms, conditions, and requirements contained in the Agreement, Contract, and Contract bid documents are incorporated in this License Agreement and shall apply to this License Agreement as if fully restated here. Unisyn shall stand in the shoes of RBM in all these incorporated requirements.

11. R.C. § 3506.10(P) Guarantee and Bond

Notwithstanding any limitation to the contrary in this License Agreement or otherwise and pursuant to R.C. § 3506.10(P), Unisyn, as the person or corporation owning or manufacturing the Voting Machines being purchased or having the legal right to control the use of those Voting Machines, is required to and shall provide Customer with, as a condition precedent to the purchase of the Voting Machines, with the following guarantee and bond:

- A. **GUARANTEE.** Unisyn shall provide Customer a written guarantee as required by R.C. § 3506.10(P), guaranteeing that the Voting Machines have been and continue to be certified by the SOS in accordance with R.C. § 3506.05, comply fully with the requirements of R.C. § 3506.10, and will correctly, accurately, and continuously register and record every vote cast, and further guaranteeing those Voting Machines against defects in workmanship and materials for a period of five (5) years from the date of their acquisition ("Guarantee Period"). The Guarantee Period will commence upon delivery of the Voting Machines to Customer.

Pursuant to such guarantee, Unisyn shall repair or replace any component of the Voting Machines which, while under normal use and service: (i) fails to perform in all material respects in accordance with the manufacturer's operation, use, and care documentation or manuals for the

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Voting Machines, or (ii) is defective in material or workmanship. Any repaired or replaced item of the Voting Machines shall be guaranteed for a new five (5) year period, the Guarantee Period for such item(s) commencing on the date of delivery of such item(s) to Customer.

Prior to providing the Voting Machines to Customer, Unisyn shall provide Customer with a written copy of such guarantee.

- B. **BOND.** Pursuant to R.C. § 3506.10(P), Unisyn shall post a bond in an amount sufficient to cover the cost of any recount or new election resulting from or directly related to the use or malfunction of the Voting Machines, accompanied by satisfactory surety, all as determined by the SOS, with the BOC. The amount of such bond shall be \$10,200.00 (170 Delaware County precincts x \$60 (cost of recount per precinct per SOS Dir. 2017-14).

Prior to providing the Voting Machines to Customer, Unisyn shall provide Customer with a written copy of such bond.

12. Other Warranties

The warranties/guarantees/bonds contained in paragraphs 7, 8 and 10 are in addition to and in lieu of all other warranties and conditions express or implied, including, but not limited to, express or implied warranties of merchantability and fitness for a particular purpose. **THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.** Except as provided in Paragraphs 5, 8, 9 and 10, the sole and exclusive remedy of Customer, and the sole and exclusive liability of Unisyn, in any action concerning or arising from Customer's use of the Unisyn OpenElect Software or Third Party Software, any equipment in which the Unisyn OpenElect Software or Third Party Software is used, the acts or omissions of persons providing services related to the Unisyn OpenElect Software or Third Party Software, or any alleged breach of this License Agreement shall be limited solely and exclusively, at Customer's sole option, to either A) repair or replacement of any defective Unisyn OpenElect Software or B) a refund of the entire cost of this License Agreement.

13. Limitation of Liability

- 13.1. Unisyn OpenElect Software may not perform properly for a variety of reasons that are beyond the control of Unisyn, including but not limited to the Unisyn OpenElect Software being negligently or improperly used, being modified, being installed on inappropriate hardware, or being supplied with improperly formatted data. Operation of the Unisyn OpenElect Software is the sole responsibility of the Customer and Unisyn shall not be responsible for the consequences of any changes to, or improper use of, the Unisyn OpenElect Software made by or on behalf of Customer.
- 13.2. Except as otherwise provided in this License Agreement, Unisyn will not be liable for any claims, actions, suits, proceedings, costs, expenses, damages, or liabilities arising out of Unisyn's performance under this License Agreement unless caused by the negligent act or omission of Unisyn, its subcontractors, agents, servants, or employees. Unisyn's liability under this License Agreement for damages, regardless of the form of action, shall not exceed the all fees or other charges paid to Unisyn under this License Agreement. Neither Unisyn nor any manufacturer or software provider for this system shall in any event be liable for special, indirect, incidental, or consequential damages, including, but not limited to, lost income, lost revenue, lost savings, increased expense of operation or lost profit, whether such damages were foreseeable or not at the time that this License Agreement was entered into, and whether or not such damages arise out of a breach of warranty, a breach of contract, negligence, strict liability or any other theory of liability.
- 13.3. Unisyn's provision of Unisyn OpenElect Software to the Customer shall not be interpreted, construed, or regarded, either expressly or impliedly, as being for the benefit of or creating any obligation toward any third party or legal entity outside of Unisyn and the Customer; Unisyn's obligations under this License Agreement extend solely to the Customer.

14. Confidential Information

- 14.1. For purposes of this License Agreement, confidential information ("Confidential Information") is defined as those materials, documents, data, and technical information, specifications, business information, representative information, individually identifiable voter information, or other information that the disclosing Party maintains as trade secrets or confidential and which are disclosed to a receiving Party in tangible form conspicuously marked as "secret," "confidential," or with words having similar meaning or which are expressly identified in this Subsection. Confidential Information includes:
- 14.1.1. All Unisyn OpenElect Software source and object code and written documentation associated therewith; and
- 14.1.2. Unisyn's equipment configuration.

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- 14.1.3. Confidential Information does not include the Agreement or this License Agreement.
- 14.2. Each Party shall treat the other Party's Confidential Information as confidential within their respective organizations, and shall, except as otherwise required by law, disclose it therein only on a need-to know basis.
- 14.3. Except as otherwise required by law, neither Party shall disclose the other Party's Confidential Information to any person outside their respective organizations unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, to any person properly seeking discovery before any such agency or court, or as otherwise required by law.
- 14.4. Each Party shall be given the ability to defend the confidentiality of its Confidential Information to the maximum extent allowable under the law prior to disclosure by the other Party of such Confidential Information.
- 14.5. Customer shall promptly notify Unisyn of any public records request it receives requesting any Unisyn Confidential Information so that Unisyn may take such action as it deems appropriate to respond to protect its Confidential Information.
- 14.6. Customer Confidential Information.

In addition to anything that may be Confidential Information pursuant to an associated Agreement, Customer may also possess research, statistical, identifying, or other information about private individuals, which may be necessary to share with Unisyn in the course of Unisyn's performance of this License Agreement. Such information about private individuals is Confidential Information. Unisyn shall not use or reveal such Confidential Information furnished to it by or on behalf of Customer that is identifiable to any specific private person for any purpose other for the performance of this License Agreement or as otherwise required by law.

15. Termination

- 15.1. This License Agreement may be terminated as follows:
- 15.1.1. **Convenience.**
- 15.1.1.1. The Customer may terminate this License Agreement at any time and for any reason by giving at least thirty (30) days advance notice, in writing, to Unisyn; or,
- 15.1.1.2. The Parties may terminate this License Agreement at any time and for any reason upon the mutual written consent of the Parties.
- 15.1.2. **Breach or Default.** Upon breach or default of any of the provisions, obligations, or duties embodied in this License Agreement, the aggrieved Party, except as otherwise provided herein, shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a stated reasonable period of time. Such cure period shall be at least thirty (30) days.
- If the breach or default is not satisfactorily remedied within the stated period of time, except as otherwise provided herein, this License Agreement may, at the election of the aggrieved Party, be immediately terminated. The terminating Party shall provide prompt written notice of such termination to the other Party.
- If the breach or default identified in the notice cannot be completely cured within the specified time period, no termination shall occur if the Party receiving the notice begins curative action, satisfactory to the aggrieved Party, within the specified time period to cure and thereafter proceeds with reasonable diligence and in good faith to cure the breach or default as soon as practicable.
- 15.1.3. **Immediate Termination.** Upon written notice to the Customer, Unisyn may immediately terminate this License Agreement for a breach of any of Paragraphs or Subparagraphs 4, 6.3, or 13.1, and seek any legal remedy to which Unisyn may be entitled, including but not limited to injunctive relief.
- 15.2. Except as otherwise state herein, termination pursuant to this section shall relieve the Parties of any and all further obligations under this License Agreement, except obligations, which as stated in this License Agreement, survive termination and except that Unisyn shall be entitled to receive compensation for any Deliverables and/or Services satisfactorily provided or performed

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hereunder through the date specified on the notice as the effective date of termination. All unearned compensation shall be immediately refunded by Unisyn to the BOE.

- 15.3. Except as otherwise stated in this Section, if the License Agreement is terminated pursuant to this Section, Unisyn shall have no cause of action against the BOC, BOE, and/or Delaware County, Ohio, except for a cause of action for non-payment for the Deliverables and/or Services rendered prior to the effective date of termination. The Customer, without limitation, retains and reserves and may exercise any available administrative, contractual, or equitable rights, legal actions, or remedies.

16. Force Majeure

The Parties shall be temporarily excused from performance under this License Agreement and shall not be entitled to impose any penalty as a result of any delay in performance or interruption of payments caused by reason of war, insurrection, terrorism, riots, civil unrest, rebellions or revolutions in the United States or any nation where the obligations under this License Agreement are to be executed, acts, laws, rules or regulations of any government or government agency, failure to appropriate, strike, supplier and third party failure, lockouts, or labor difficulties, automobile fuel shortages, weather, explosion, act of God, order of Court or other public authority, or any other cause beyond the reasonable control of the Parties ("Force Majeure"). A Party who has been affected by a Force Majeure shall immediately give written notice to the other Party, provide an estimate as to the duration of time the Party will be affected the Force Majeure, and shall do everything possible to expediently resume performance. Such excusal from performance or interruption of payments shall continue until such Force Majeure ceases to exist or the License Agreement is terminated as provided in this License Agreement.

Neither Party shall be liable under this License Agreement for any loss or damage to the other Party due to delay or performance failures as a result of any Force Majeure. Notwithstanding the foregoing, both Parties shall use their best efforts to minimize the adverse consequences of any such circumstances.

17. Survival

The provisions of Paragraphs and Subparagraphs 3, 4.3, 4.4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 shall survive the expiration or termination of this License Agreement.

18. Assignment

Neither Party may assign its rights, obligations, responsibilities, or interests in this License Agreement without the prior express signed written consent of the other Party, except that Unisyn may 1) assign the proceeds of this License Agreement to a financial institution without prior consent of the Customer or 2) assign this License Agreement to a successor in interest in all its business.

19. Subcontracting

Unisyn may subcontract any portion of this License Agreement without the consent of the Customer. If all or any portion of this License Agreement is subcontracted, any subcontractor shall be bound by all applicable terms of this License Agreement and Unisyn shall continue to act as the prime contractor for all subcontracted work and shall assume full responsibility for the performance of the work. Unisyn shall remain the sole point of contact and shall be ultimately responsible for the performance of the work.

20. Legality and Severability

This License Agreement and the Parties' actions under this License Agreement shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, court orders, and applicable governmental agency orders. If any term or provision of this License Agreement is held to be illegal or unenforceable, the remainder of this License Agreement shall not be affected thereby and each term or provision of this License Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties agree that any arbitrator or court reviewing this License Agreement shall reform any illegal or unenforceable provision to carry out the express intent of the Parties as set forth herein to the fullest extent permitted by law.

21. Applicable Law

This License Agreement is governed by and shall be construed and interpreted in accordance with the laws of the State of Ohio, without giving effect to the conflict of law principles thereof. The Parties irrevocably agree that venue is proper in the courts of Delaware County, Ohio or federal courts for such county.

22. Waiver

Any failure of a Party to assert any right under this License Agreement shall not constitute a waiver or a termination of that right, this License Agreement, or any provisions of this License Agreement nor a

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waiver of any breach or subsequent breach not directly associated with the specific situation wherein the right was not asserted. Waiver by either Party shall be authorized in writing and signed by an authorized representative(s) of the waiving Party. In the case of the Customer, any waiver shall be approved by the BOE.

23. Notices

All notices which may be required by this License Agreement or by operation of any rule of law shall be sent via certified mail, return receipt requested, by nationally recognized and reputable overnight courier, return receipt requested, by email, read receipt requested, or hand delivered to the following individuals at the following addresses and shall be effective on the date sent or hand delivered:

Unisyn
Printed Name _____
Title _____

Address:

Telephone: _____
Email: _____

BOE (Customer)

Karla Herron
Director
Delaware County Board of Elections
2079 US Hwy. 23 N.
P.O. Box 8006
Delaware, Ohio 43015

Telephone: (740) 833-2081
Email: kherron@co.delaware.oh.us

24. Independent Contractor

Unisyn agrees that it shall act in performance of this License Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties pursuant to the terms and conditions of this License Agreement.

Unisyn assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for the License.

Unisyn and/or Unisyn’s boards, officers, officials, directors, employees, representatives, volunteers, contractors, subcontractors, and/or agents (“Unisyn Employees”) are not entitled to any benefits enjoyed by employees of the BOC, BOE, Customer or Delaware County, Ohio.

**25. Independent Contractor Acknowledgement/
No Contribution to OPERRS**

The BOC, BOE, Customer, and Delaware County, Ohio (for purposes of this section collectively “County”) are public employers as defined in R.C. § 145.01(D). The County has classified Unisyn 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 Unisyn and/or Unisyn Employees for the License. Unisyn acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If Unisyn is an individual or has less than five (5) employees, Unisyn, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor/Worker Acknowledgement Form (“OPERS Form”). The OPERS Form is attached hereto as Agreement Exhibit 2. The BOE shall retain the completed OPERS Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If Unisyn has five (5) or more employees, Unisyn, by signature of its authorized representative below, hereby certifies such fact in lieu of completing the OPERS Form:

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Signature

Date

Printed Name

Title

Unisyn Voting Solutions, Inc.

26. Prohibited Interest / Non-Diversion of Employees

The Parties agree that their respective employees during their tenure or for one (1) year thereafter shall not have any interest, direct or indirect, in this License Agreement or the proceeds thereof. The Parties agree that they will not offer employment or employ in any manner a current employee of the other for a minimum period of one (1) year from the date this License Agreement expires or is terminated, without the prior express signed written consent of the other Party.

27. Licenses.

Unisyn certifies and warrants that it, all Unisyn Employees engaged in the performance of this License Agreement, and/or subcontractors have obtained and maintain current all approvals, licenses, including operator licenses, certifications, permits, and/or other qualifications or prerequisites (collectively "Licenses") necessary to fully perform this License Agreement and to conduct business in the state of Ohio. Unisyn further certifies and warrants that all such Licenses are operative and current and have not been revoked or are not currently suspended for any reason. Proof of such Licenses shall be promptly provided upon request.

28. Access to Records

At any time during regular business hours, with reasonable notice, and as often as the Customer or other agency or individual authorized by the Customer may deem necessary, Unisyn shall make available to any or all the above named parties or their authorized representatives, at no cost, all contracts, subcontracts, invoices, receipts, reports, documents, and all other information or data, regardless of form or media, relating to all matters covered by this License Agreement (collectively "Records"). The Customer and the above named parties shall be permitted by Unisyn and shall be entitled to inspect or audit and/or make excerpts, copies, and/or transcripts of the Records.

29. Records Retention

For a minimum of three (3) years after expiration or termination of this License Agreement, Unisyn shall retain and maintain and assure that all of its subcontractors retain and maintain all Records. If an audit, litigation, or other action related to this License Agreement is initiated during the term of this License Agreement or the three (3) year retention period, Unisyn shall retain and maintain, and assure that all of its subcontractors retain and maintain the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever occurs last.

30. Certification Regarding Findings for Recovery

Unisyn, 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

Printed Name

Title

31. Certification Regarding Personal Property Taxes

Unisyn, by signature of its authorized representative below, hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

Signature

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32. Campaign Finance – Compliance with R.C. § 3517.13

R.C. §§ 3517.13 I(3) and J(3) require 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 R.C. §§ 3517.13(I)(1) and (J)(1) are in compliance with the aforementioned provisions. Unisyn, therefore, is required to complete the attached certificate/affidavit entitled “Certification/Affidavit in Compliance With O.R.C. Section 3517.13” (“Campaign Finance Form”) Failure to complete and submit the required Campaign Finance Form with the License Agreement will prohibit the Customer from entering, proceeding with, and/or performing the License Agreement. The Campaign Finance Form is attached to this License Agreement as Agreement Exhibit 3.

33. Non-Discrimination/ Equal Opportunity/Civil Rights

All contracts with Delaware County, Ohio must contain and all contractors with Delaware County, Ohio must agree to enter a contract containing language similar to that contained in R.C. § 125.111, which requires the following:

Every contract for or on behalf of the state or any of its political subdivisions for any purchase shall contain provisions similar to those required by R.C. § 153.59 in the case of construction contracts by which the contractor agrees to both of the following:

- A. That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the contract relates;
- B. That no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry.

All contractors from whom the state or any of its political subdivisions make purchases shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in R.C. § 122.71(E)(1). Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the department of administrative services.

Unisyn agrees to the above and certifies that it complies with all applicable federal, state, and local laws regarding non-discrimination, equal opportunity, and/or civil rights and will not discriminate.

34. Conflict of Interest

Unisyn is unaware of and certifies that there are no conflicts of interest, either involving it or its employees, that would prohibit Unisyn from entering this License Agreement and agrees to immediately notify the BOE when and if it becomes aware of any actual or potential conflict(s) of interest that arises during the term of the License Agreement.

35. Drug Free Environment

Unisyn agrees to comply with all applicable federal, state, and local laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. Unisyn 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.

36. County/BOE Policies

Unisyn shall be bound by, conform to, comply with, and abide by all current applicable BOE and Delaware County, Ohio policies, including, but not limited to, the Contractor Safety Policy, Computer Use Policy, Social Media Policy, and Internet Use Policy (collectively “County Policy”) and shall

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require any and all Unisyn Employees engaged in the performance of this License Agreement to comply with BOE and County Policy and shall be responsible for such compliance. Notwithstanding any other termination provision of this License Agreement, the Customer may, in its sole discretion, immediately terminate this License Agreement for failure of Unisyn or any Unisyn Employee to comply with BOE or County Policy. Copies of BOE and County Policy are available upon request or County Policy is available online at:

<http://www.co.delaware.oh.us/index.php/policies>.

The BOE and County reserve the authority to change, amend, replace, enact, repeal, and/or rescind BOE and/or County Policy at any time and without notice.

37. Audit

Unisyn agrees to submit to audit and accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority. Unisyn agrees to reimburse the BOE the amount of any identified audit exception.

38. Authority

The Customer is authorized by including, but not limited to, R.C §§ 3501.11(C), 3506.02 and 3506.03 to enter this License Agreement.

39. Headings

The subject headings of the paragraphs in this License Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

40. Drafting

This License Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.

41. Parties Bound

This License Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

42. Counterparts

This License Agreement may be executed in counterparts.

43. Incorporation of Exhibits

The following exhibits are attached to the Agreement and by this reference incorporated into and made a part of this License Agreement:

- Agreement Exhibit 1 – Federal IRS W-9 Form
- Agreement Exhibit 2 - OPERS Form
- Agreement Exhibit 3 - Campaign Finance Form
- License Agreement Exhibit 4 – List of Additional Functions and Enhancements

To the extent that any terms and conditions of this License Agreement conflict with those contained in the attached exhibits, the terms and conditions of this License Agreement shall prevail.

44. Signatures

Any person executing this License Agreement in a representative capacity hereby warrants that he/she has authority to sign this License Agreement or has been duly authorized by his/her principal to execute this License Agreement on such principal's behalf and is authorized to bind such principal.

45. Entire Agreement/Modifications

This License Agreement, together with any Agreement or Contract of which this License Agreement initially formed a part, states the entire agreement between Customer and Unisyn concerning the subject matter hereof and supersedes all prior proposals or agreements whether oral or written. No alteration, waiver or modification of any provision of this License Agreement shall be effective unless it is in writing, expressly indicates that it modifies this License Agreement, and is signed by the duly authorized representatives of both Customer and Unisyn.

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IN WITNESS WHEREOF, Customer and Unisyn have caused this License Agreement to be executed by their duly authorized officers as of the date set forth below.

UNISYN VOTING SOLUTIONS, INC.

Signature Date

Printed Name

Title
Address:

RBM CONSULTING, LLC

Signature Date

Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

Gary Merrell Date
Commissioner

Jeff Benton Date
Commissioner

Barb Lewis Date
Commissioner

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky St.
Delaware, OH 43015

**BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

Ed Helvey Date
Board Member

Peg Watkins
Board Member

Steve Cuckler
Board Member

Shawn Stevens
Board Member

Board of Elections
Delaware County, Ohio
2079 US Hwy. 23 North
Delaware, Ohio 43015

Approved as to form:

Christopher D. Betts Date
Acting Delaware County Prosecuting Attorney

**NO ADDITIONAL COUNTY AUDITOR'S CERTIFICATION
REQUIRED (RC 5705.41(D)):**

The availability of funds required to meet the obligation set forth in this License Agreement was certified by the Auditor in the Auditor's Certificate attached to the Agreement. No separate Auditor's Certification is required for this License Agreement.

**FIRST AMENDMENT TO THE MASTER AGREEMENT
FOR PURCHASE OF VOTING SYSTEM**

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This First Amendment to the Master Agreement for Purchase of Voting System (“First Amendment”) is entered into this April 2, 2019 by and between RBM Consulting, LLC (“RBM”), whose principal place of business is located at 5257 E. 10th Street, Indianapolis, IN 46219, Unisyn Voting Solutions, Inc. (“Unisyn”), whose principal place of business is located at 2310 Cousteau Court, Vista CA 92081-8346, and the Board of Commissioners, Delaware County, Ohio (“BOC”), whose principal place of business is located at 101 N. Sandusky St., Delaware, Ohio 43015, for and on behalf of the Board of Elections, Delaware County, Ohio (“BOE”), whose principal place of business is located at 2079 US Hwy. 23 N., P.O. Box 8006, Delaware, Ohio 43015 (BOC and BOE collectively “CLIENT”) (individually “Party,” collectively “Parties”).

WHEREAS, the Parties entered into a Master Agreement for Purchase of Voting System (“Agreement”), which included as Exhibit D a Software License Agreement (“License Agreement”); and,

WHEREAS, the Parties now desire to amend and modify the Agreement and License Agreement.

NOW THEREFORE, the Parties amend and modify the Agreement and License Agreement as follows:

1. LICENSE AGREEMENT.

A. References in Section 6.1 of the License Agreement to Sections 6.1 and 6.2 are corrected to respectively reference Sections 7.1 and 7.2.

B. Section 11(A) of the License Agreement is deleted in its entirety and replaced with the following:

“**GUARANTEE.** On behalf of RBM and Unisyn, RBM shall provide the guarantee as stated in and required by Section 15(A) of the Agreement.”

C. The paragraph and subparagraph references in Section 17 of the License Agreement are corrected and replaced with the following:

4, 5.3. 5.4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23.

2. AGREEMENT. The following statement is added to Section 15(A) of the Agreement:

“The Guarantee in this section shall end and cease to exist if during the Guarantee Period the CLIENT in writing, signed by the CLIENT, expressly discontinues maintenance of the Voting System hardware pursuant to the first year warranty or the Hardware Maintenance Agreement (“Maintenance Agreement”) attached to the Agreement as Exhibit B.”

Aside from the addition of the above statement, all terms and conditions of Section 15(A) of the Agreement remain the same, unchanged, and in full force and effect. Also, the addition of the above statement does not impact, effect, or change any other warranty or guarantee provided pursuant to the Agreement or any exhibit to the Agreement and any such warranty or guarantee shall remain the same and in full force and effect.

3. SIGNATURES. Any person executing this First Amendment in a representative capacity hereby warrants that he/she has authority to sign this First Amendment or has been duly authorized by his/her principal to execute this First Amendment on such principal’s behalf and is authorized to bind such principal.

4. CONFLICTS. In the event of a conflict between this First Amendment and the terms and conditions of the Agreement, License Agreement (Ex. D), Maintenance Agreement (Ex. B), or any other exhibit to the Agreement, the terms of this First Amendment shall prevail.

5. OTHER TERMS OF AGREEMENT UNCHANGED. All terms and conditions of the Agreement, License Agreement (Ex. D), Maintenance Agreement (Ex. B), and all other exhibits to the Agreement not changed by this First Amendment remain the same, unchanged, and in full force and effect.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the dates indicated below.

UNISYN VOTING SOLUTIONS, INC.

Signature

Date

Printed Name

Title

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Address:

RBM CONSULTING, LLC

Signature

Date

Printed Name

Title

RBM Consulting, LLC
5257 E. 10th Street
Indianapolis, IN 46219

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, OHIO**

Gary Merrell
Commissioner

Date

Jeff Benton
Commissioner

Date

Barb Lewis
Commissioner

Date

Board of Commissioners
Delaware County, Ohio
101 N. Sandusky St.
Delaware, OH 43015

**BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

Ed Helvey
Board Member

Date

Peg Watkins
Board Member

Steve Cuckler
Board Member

Shawn Stevens
Board Member

Board of Elections
Delaware County, Ohio
2079 US Hwy. 23 North
Delaware, Ohio 43015

Approved as to form:

Christopher D. Betts
Acting Delaware County Prosecuting Attorney

Date

NO COUNTY AUDITOR'S CERTIFICATION REQUIRED (RC 5705.41(D)):

This First Amendment does not require the expenditure of Delaware County moneys/ funds. No Auditor's Certification is required.

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

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ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

-The Pre-Hospital Care Board meeting last Thursday went well.

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COMMISSIONERS' COMMITTEES REPORTS

Commissioner Benton

-Attended the CEBCO Annual Meeting last Friday.

-Will be attending the OCCO meeting tomorrow.

-The Community Enhancement Grant presentations will occur this Wednesday.

-The Transportation Improvement District will meet on Wednesday morning.

Commissioner Merrell

-Will be attending the CCAO Legislative meeting tomorrow.

-Would like to thank County Administrator, Mike Frommer for addressing an issue brought to our attention from a resident.

Commissioner Lewis

-Attended the Justice and Public Safety Committee Meeting last Friday.

-Will be attending the DKMM Policy Meeting tomorrow.

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners